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THE

LETTERS OF JUNIUS.

IN TWO VOLUMES.

Joseph L. Watts

VOL. II.

A NEW EDITION.

STAT NOMINIS UMBRA.

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LETTERS OF JUNIUS.

LETTER XXXVIII.

TO THE

PRINTER OF THE PUBLIC ADVERTISER.

SIR, April 3, 1770.

IN my last letter I offered you my opinion of the truth and propriety of his Majesty's answer to the City of London, considering it merely as the speech of a Minister, drawn up in his own defence, and delivered, as usual, by the Chief Magistrate. I would separate, as much as possible, the King's personal character and behaviour from the acts of the present government. I wish it to be understood that his Majesty had, in effect, no more concern in the substance of what he said, than Sir James Hodges had in the remonstrance; and that as Sir James, in virtue of his office, was obliged to speak the sentiments of the people, his Majesty might think himself bound, by the same official obligation, to give a

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graceful utterance to the sentiments of his Minister. The cold formality of a well-repeated lesson is widely distant from the animated expression of the heart.

This distinction, however, is only true with respect to the measure itself. The consequences of it reach beyond the Minister, and materially affect his Majesty's honour. In their own nature, they are formidable enough to alarm a man of prudence, and disgraceful enough to afflict a man of spirit. A subject, whose sincere attachment to his Majesty's person and family is founded upon rational principles, will not, in the present conjuncture, be scrupulous of alarming, or even of afflicting, his Sovereign. I know there is another sort of loyalty, of which his Majesty has had plenty of experience. When the loyalty of Tories, Jacobites, and Scotchmen, has once taken possession of an unhappy Prince, it seldom leaves him without accomplishing his destruction. When the poison of their doctrines has tainted the natural benevolence of his disposition, when their insidious councils have corrupted the *stamina* of his government, what antidote can restore him to his political health and honour, but the firm sincerity of his English subjects?

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It has not been usual, in this country, at least since the days of Charles the First, to see the Sovereign personally at variance, or engaged in a direct altercation, with his subjects. Acts of grace and indulgence are wisely appropriated to him, and should constantly be performed by himself. He never should appear but in an amiable light to his subjects. Even in France, as long as any ideas of a limited monarchy were thought worth preserving, it was a maxim that no man should leave the royal presence discontented. They have lost or renounced the moderate principles of their government; and now, when their parliaments venture to remonstrate, the tyrant comes forward, and answers absolutely for himself. The spirit of their present constitution requires that the King should be feared; and the principle, I believe, is tolerably supported by the fact. But, in our political system, the theory is at variance with the practice; for the King should be beloved. Measures of greater severity may, indeed, in some circumstances, be necessary; but the Minister who advises, should take the execution and odium of them entirely upon himself. He not only betrays his master, but violates the spirit of the English constitution, when he exposes the chief magistrate to the personal hatred or contempt of his

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subjects. When we speak of the firmness of government, we mean an uniform system of measures, deliberately adopted, and resolutely maintained, by the Servants of the Crown; not a peevish asperity in the language and behaviour of the Sovereign. The government of a weak, irresolute monarch, may be wise, moderate, and firm; that of an obstinate, capricious prince, on the contrary, may be feeble, undetermined, and relaxed. The reputation of public measures depends upon the Minister, who is responsible; not upon the King, whose private opinions are not supposed to have any weight against the advice of his council, and whose personal authority should, therefore, never be interposed in public affairs. This, I believe, is true, constitutional doctrine. But for a moment let us suppose it false. Let it be taken for granted, that an occasion may arise, in which a King of England shall be compelled to take upon himself the ungrateful office of rejecting the petitions, and censuring the conduct, of his subjects; and let the city remonstrance be supposed to have created so extraordinary an occasion. On this principle, which I presume no friend of Administration will dispute, let the wisdom and spirit of the Ministry be examined. They advise the King to hazard his dignity, by a positive declara-

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tion of his own sentiments: they suggest to him a language full of severity and reproach. What follows? When his Majesty had taken so decisive a part in support of his Ministry and Parliament, he had a right to expect from them a reciprocal demonstration of firmness in their own cause, and of their zeal for his honour. He had reason to expect (and such, I doubt not, were the blustering promises of Lord North) that the persons whom he had been advised to charge with having failed in their respect to him, with having injured parliament, and violated the principles of the constitution, should not have been permitted to escape without some severe marks of the displeasure and vengeance of parliament. As the matter stands, the Minister, after placing his Sovereign in the most unfavourable light to his subjects, and after attempting to fix the ridicule and odium of his own precipitate measures upon the royal character, leaves him a solitary figure upon the scene, to recal, if he can, or to compensate, by future compliances, for one unhappy demonstration of ill-supported firmness and ineffectual resentment. As a man of spirit, his Majesty cannot but be sensible, that the lofty terms in which he was persuaded to reprimand the City, when united with the silly conclusion of the

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business, resembled the pomp of a mock tragedy, where the most pathetic sentiments, and even the sufferings of the hero, are calculated for derision.

Such have been the boasted firmness and consistency of a Minister * whose appearance in the House of Commons was thought essential to the King's service; whose presence was to influence every division; who had a voice to persuade, an eye to penetrate, a gesture to command. The reputation of these great qualities has been fatal to his friends. The little dignity of Mr. Ellis has been committed. The mine was sunk; combustibles were provided; and Welbore Ellis, the Guy Faux of the fable, waited only for the signal of command. All of a sudden the country gentlemen discover how grossly they have been deceived: the Minister's heart fails him; the grand plot is defeated in a moment; and poor Mr. Ellis and his motion taken into custody. From the event of Friday last, one would imagine that some fatality hung over this gentleman. Whether he makes or suppresses a motion, he

* This graceful Minister is oddly constructed. His tongue is a little too big for his mouth, and his eyes a great deal too big for their sockets. Every part of his person sets natural proportion at defiance. At this present writing his head is supposed to be much too heavy for his shoulders.

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is equally sure of disgrace. But the complexion of the times will suffer no man to be Vice-treasurer of Ireland with impunity*.

I do not mean to express the smallest anxiety for the Minister's reputation. He acts separately for himself, and the most shameful inconsistency may perhaps be no disgrace to him. But when the Sovereign, who represents the majesty of the state, appears in person, his dignity should be supported. The occasion should be important; the plan well considered; the execution steady and consistent. My zeal for his Majesty's real honour compels me to assert, that it has been too much the system of the present reign, to introduce him personally either to act for or defend his servants. They persuade him to do what is properly their business, and desert him in the midst of it. Yet this is an inconvenience to which he must for ever be exposed, while he

* About this time the courtiers talked of nothing but a bill of pains and penalties against the Lord Mayor and Sheriffs, or impeachment at the least. Little *Mannikin Ellis* told the King, that, if the business were left to his management, he would engage to do wonders. It was thought very odd that a business of so much importance should be entrusted to the most contemptible little piece of machinery in the whole kingdom. His honest zeal, however, was disappointed. The Minister took fright; and, at the very instant that little Ellis was going to open, sent him an order to sit down. All their magnanimous threats ended in a ridiculous vote of censure, and a still more ridiculous address to the King.

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adheres to a Ministry divided among themselves, or unequal in credit and ability to the great task they have undertaken. Instead of reserving the interposition of the Royal Personage, as the last resource of government, their weakness obliges them to apply it to every ordinary occasion, and to render it cheap and common in the opinion of the people. Instead of supporting their Master, they look to him for support; and for the emoluments of remaining one day more in office, care not how much his sacred character is prostituted and dishonoured.

If I thought it possible for this paper to reach the closet, I would venture to appeal at once to his Majesty's judgment. I would ask him, but in the most respectful terms, "As you are a "young man, Sir, who ought to have a life of "happiness in prospect, as you are a husband, "as you are a father (your filial duties, I own, "have been religiously performed) is it *bona fide* "for your interest, or your honour, to sacrifice "your domestic tranquillity, and to live in a "perpetual disagreement with your people, "merely to preserve such a chain of beings as "North, Barrington, Weymouth, Gower, Ellis, "Onslow, Rigby, Jerry Dyson, and Sandwich? "Their very names are a satire upon all go-

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"vernment! and I defy the gravest of your "chaplains to read the catalogue without laugh-"ing."

For my own part, Sir, I have always considered addresses from parliament as a fashionable, unmeaning formality. Usurpers, idiots, and tyrants, have been successively complimented with almost the same professions of duty and affection. But let us suppose them to mean exactly what they profess. The consequences deserve to be considered. Either the Sovereign is a man of high spirit, and dangerous ambition, ready to take advantage of the treachery of his Parliament, ready to accept of the surrender they make him of the public liberty, or he is a mild, undesigning prince, who, provided they indulge him with a little state and pageantry, would of himself intend no mischief. On the first supposition, it must soon be decided by the sword, whether the constitution should be lost or preserved. On the second, a prince, no way qualified for the execution of a great and hazardous enterprize, and without any determined object in view, may nevertheless be driven into such desperate measures, as may lead directly to his ruin; or disgrace himself by a shameful fluctuation between the ex-

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tremes of violence at one moment, and timidity at another. The minister, perhaps, may have reason to be satisfied with the success of the present hour, and with the profits of his employment. He is the tenant of the day, and has no interest in the inheritance. The Sovereign himself is bound by other obligations, and ought to look forward to a superior, a permanent interest. His paternal tenderness should remind him how many hostages he has given to society. The ties of nature come powerfully in aid of oaths and protestations. The father who considers his own precarious state of health, and the possible hazard of a long minority, will wish to see the family estate free and unincumbered*. What is the dignity of the Crown, though it were really maintained; what is the honour of Parliament, supposing it could exist without any foundation of integrity and justice; or what is the vain reputation of firmness, even if the scheme of the government were uniform and consistent, compared with the heart-felt affections of the people, with the happiness and security of the royal family, or even with the grateful acclamations of the populace? What-

* Every true friend of the house of Brunswick sees with affliction how rapidly some of the principal branches of the family have dropped off.

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ever style of contempt may be adopted by Ministers or Parliaments, no man sincerely despises the voice of the English nation. The House of Commons are only interpreters, whose duty it is to convey the sense of the people faithfully to the Crown. If the interpretation be false or imperfect, the constituent powers are called upon to deliver their own sentiments. Their speech is rude, but intelligible; their gestures fierce, but full of explanation. Perplexed by sophistries, their honest eloquence rises into action. Their first appeal was to the integrity of their representatives; the second, to the King's justice. The last argument of the people, whenever they have recourse to it, will carry more, perhaps, than persuasion to Parliament, or supplication to the Throne.

JUNIUS.

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LETTER XXXIX.

TO THE

PRINTER OF THE PUBLIC ADVERTISER.

SIR, May 28, 1770.

WHILE Parliament was sitting, it would neither have been safe, or, perhaps, quite regular, to offer any opinion to the public upon the justice or wisdom of their proceedings. To pronounce fairly upon their conduct, it was necessary to wait until we could consider, in one view, the beginning, progress and conclusion of their deliberations. The cause of the public was undertaken and supported by men whose abilities and united authority, to say nothing of the advantageous ground they stood on, might well be thought sufficient to determine a popular question in favour of the people. Neither was the House of Commons so absolutely engaged in defence of the Ministry, or even of their own resolutions, but that they might have paid some decent regard to the known disposition of their constituents; and, without any dishonour to their firmness, might have retracted an opinion too hastily adopted, when they saw the alarm it had created, and how strongly it was opposed by

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the general sense of the nation. The Ministry, too, would have consulted their own immediate interest in making some concession satisfactory to the moderate part of the people. Without touching the fact, they might have consented to guard against, or give up, the dangerous principle on which it was established. In this state of things, I think it was highly improbable, at the beginning of the session, that the complaints of the people upon a matter, which, in their apprehension at least, immediately affected the life of the constitution, would be treated with as much contempt by their own representatives, and by the House of Lords, as they had been by the other branch of the legislature. Despairing of their integrity, we had a right to expect something from their prudence, and something from their fears. The Duke of Grafton certainly did not foresee to what an extent the corruption of a Parliament might be carried. He thought, perhaps, that there was still some portion of shame or virtue left in the majority of the House of Commons, or that there was a line in public prostitution beyond which they would scruple to proceed. Had the young man been a little more practised in the world, or had he ventured to measure the characters of other

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men by his own, he would not have been so easily discouraged.

The prorogation of Parliament, naturally calls upon us to review their proceedings, and to consider the condition in which they have left the kingdom. I do not question but they have done what is usually called the King's business, much to his Majesty's satisfaction: we have only to lament, that, in consequence of a system introduced or revived in the present reign, this kind of merit should be very consistent with the neglect of every duty they owe to the nation. The interval between the opening of the last, and close of the former session, was longer than usual. Whatever were the views of the Minister in deferring the meeting of Parliament, sufficient time was certainly given to every Member of the House of Commons, to look back upon the steps he had taken, and the consequences they had produced. The zeal of party, the violence of personal animosities, and the heat of contention, had leisure to subside. From that period, whatever resolution they took was deliberate and prepense. In the preceding session, the dependents of the Ministry had affected to believe, that the final determination of the question would have satisfied the nation, or at

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least put a stop to their complaints; as if the certainty of an evil could diminish the sense of it, or the nature of injustice could be altered by decision. But they found the people of England were in a temper very distant from submission; and although it was contended that the House of Commons could not themselves reverse a resolution which had the force and effect of a judicial sentence, there were other constitutional expedients which would have given a security against any similar attempts for the future. The general proposition, in which the whole country had an interest, might have been reduced to a particular fact, in which Mr. Wilkes and Mr. Luttrell would alone have been concerned. The House of Lords might interpose; the King might dissolve the Parliament; or, if every other resource failed, there still lay a grand constitutional writ of error, in behalf of the people, from the decision of one court to the wisdom of the whole legislature. Every one of these remedies has been successively attempted. The people performed their part with dignity, spirit, and perseverance. For many months his Majesty heard nothing from his people, but the language of complaint and resentment: unhappily for this country, it was

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the daily triumph of his courtiers, that he heard it with an indifference approaching contempt.

The House of Commons, having assumed a power unknown to the constitution, were determined not merely to support it in the single instance in question, but to maintain the doctrine in its utmost extent, and to establish the fact as a precedent in law, to be applied in whatever manner his Majesty's Servants should hereafter think fit. Their proceedings upon this occasion are a strong proof that a decision, in the first instance illegal and unjust, can only be supported by a continuation of falsehood and injustice. To support their former resolutions, they were obliged to violate some of the best known and established rules of the House. In one instance, they went so far as to declare, in open defiance of truth and common sense, that it was not the rule of the House to divide a complicated question at the request of a Member*. But, after trampling upon the laws of the land, it was not wonderful that they should treat the private regulations of their own assembly with equal disregard. The speaker, being young in office, began

* The extravagant resolution appears in the vote of the House; but, in the minutes of the committees, the instances of resolutions contrary to law and truth, or of refusals to acknowledge law and truth when proposed to them, are innumerable.

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with pretended ignorance, and ended with deciding for the Ministry. We are not surprised at the decision; but he hesitated and blushed at his own baseness, and every man was astonished.*

The interest of the public was vigorously supported in the House of Lords. Their right to defend the constitution against an encroachment of the other estates, and the necessity of exerting it at this period, was urged to them with every argument that could be supposed to influence the heart or the understanding. But it soon appeared that they had already taken their part, and were determined to support the House of Commons, not only at the expence of truth and decency, but even by a surrender of their own most important rights. Instead of forming that duty which the constitution expected from them, in return for the dignity and independence of their station, in return for the hereditary share it has given them in the legisla-

* When the King first made it a measure of his government to destroy Mr. Wilkes, and when, for this purpose, it was necessary to run down privilege, Sir Fletcher Norton, with his usual prostituted effrontery, assured the House of Commons, that he should regard one of their votes no more than a resolution of so many drunken porters. This is the very lawyer whom Ben Jonson describes in the following lines:

"Gives forked counsel; takes provoking gold
"*On either hand*, and puts it up.
"So wise, so grave, of so perplex'd a tongue,
"And *loud* withal, that would not wag, nor scarce
"Lie still, without a *fee*."

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ture, the majority of them made common cause with the other House in oppressing the people, and established another doctrine as false in itself, and, if possible, more pernicious to the constitution, than that on which the Middlesex election was determined. By resolving, "that "they had no right to impeach a judgment of "the House of Commons, in any case whatsoever, where that House has a competent jurisdiction," they, in effect, gave up that constitutional check and reciprocal control of one branch of the legislature over the other, which is, perhaps, the greatest and most important object provided for by the division of the whole legislative power, into three estates: and now let the judicial decisions of the House of Commons be ever so extravagant, let their declarations of the law be ever so flagrantly false, arbitrary, and oppressive to the subject, the House of Lords have imposed a slavish silence upon themselves; they cannot interpose; they cannot protect the subject; they cannot defend the laws of their country. A concession so extraordinary in itself, so contradictory to the principles of their own institution, cannot but alarm the most unsuspecting mind. We may well conclude, that the Lords would hardly have yielded so much to the other House without the cer-

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tainty of a compensation, which can only be made to them at the expence of the people*. The arbitrary power they have assumed, of imposing fines, and committing during pleasure, will now be exercised in its full extent. The House of Commons are too much in their debt to question or interrupt their proceedings. The Crown, too, we may be well assured, will lose nothing in this new distribution of power. After declaring, that, to petition for a dissolution of Parliament is irreconcileable with the principles of the constitution, his Majesty has reason to expect that some extraordinary compliment will be returned to the Royal prerogative. The three branches of the legislature seem to treat their separate rights and interests as the Roman triumvirs did their friends; they reciprocally sacrifice them to the animosities of each other; and establish a detestable union among themselves, upon the ruin of the laws and liberty of the commonwealth. Through the whole proceedings of the House of Commons, in this session, there is an apparent, a palpable consciousness of guilt, which has prevented their

* The man, who resists and overcomes this iniquitous power, assumed by the Lords, must be supported by the whole people. We have the laws on our side, and want nothing but an intrepid leader. When such a man stands forth, let the nation look to it. It is not his cause, but our own.

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daring to assert their own dignity, where it has been immediately and grossly attacked. In the course of Doctor Musgrave's examination, he said every thing that can be conceived mortifying to individuals, or offensive to the House. They voted his information frivolous; but they were awed by his firmness and integrity, and sunk under it.* The terms in which the sale of a patent to Mr. Hine were communicated to the public, naturally called for a parliamentary enquiry. The integrity of the House of Commons was directly impeached: but they had not courage to move in their own vindication, because the enquiry would have been fatal to Colonel Burgoyne, and the Duke of Grafton. When Sir George Saville branded them with the name of traitors to their constituents, when the Lord Mayor, the Sheriffs, and Mr. Trecothick, expressly avowed and maintained every part of the City Remonstrance, why did they tamely submit to be insulted? Why did they not immediately expel those refractory Members? Conscious of the motives on which they had acted, they prudently preferred infamy to danger; and were better prepared to meet the contempt,

* The examination of this firm, honest man, is printed for *Almon*. The reader will find it a most curious and most interesting tract. Doctor Musgrave, with no other support but truth and his own firmness, resisted and overcame the whole House of Commons.

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than to rouse the indignation of the whole people. Had they expelled those five members, the consequences of the new doctrine of incapacitation would have come immediately home to every man. The truth of it would then have been fairly tried, without any reference to Mr. Wilkes's private character, or the dignity of the House, or the obstinacy of one particular county. These topics, I know, have had their weight with men, who, affecting a character of moderation, in reality, consult nothing but their own immediate ease; who are weak enough to acquiesce under a flagrant violation of the laws, when it does not directly touch themselves; and care not what injustice is practised upon a man whose moral character they piously think themselves obliged to condemn. In any other circumstances, the House of Commons must have forfeited all credit and dignity, if, after such gross provocation, they had permitted those five gentlemen to sit any longer among them. We should then have seen and felt the operation of a precedent, which is represented to be perfectly barren and harmless. But there is a set of men in this country, whose understandings measure the violation of law by the magnitude of the instance, not by the important consequences which flow directly from the principle:

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and the Minister, I presume, did not think it safe to quicken their apprehensions too soon. Had Mr. Hampden reasoned, and acted like the moderate men of these days, instead of hazarding his whole fortune in a law-suit with the Crown, he would have quietly paid the twenty shillings demanded of him; the Stuart family would probably have continued upon the throne; and, at this moment, the imposition of ship-money would have been an acknowledged prerogative of the Crown.

What then has been the business of the session, after voting the supplies, and confirming the determination of the Middlesex election? The extraordinary prorogation of the Irish Parliament, and the just discontents of that kingdom, have been passed by without notice. Neither the general situation of our colonies, nor that particular distress which forced the inhabitants of Boston to take up arms in their defence, have been thought worthy of a moment's consideration. In the repeal of those acts which were most offensive to America, the Parliament have done every thing but remove the offence. They have relinquished the revenue, but judiciously taken care to preserve the contention. It is not pretended that the continuation of the tea-duty,

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is to produce any direct benefit whatsoever to the mother-country. What is it then, but an odious, unprofitable exertion of a speculative right, and fixing a badge of slavery upon the Americans, without service to their masters? But it has pleased God to give us a Ministry and a Parliament, who are neither to be persuaded by argument, or instructed by experience.

Lord North, I presume, will not claim an extraordinary merit from any thing he has done this year, in the improvement or application of the revenue. A great operation, directed to an important object, though it should fail of success, marks the genius, and elevates the character of a Minister. A poor contracted understanding deals in little schemes, which dishonour him if they fail, and do him no credit when they succeed. Lord North had fortunately the means in his possession of reducing all the four *per cents.* at once. The failure of his first enterprize in finance, is not half so disgraceful to his reputation as a Minister, as the enterprize itself is injurious to the public. Instead of striking one decisive blow, which would have cleared the market at once, upon terms proportioned to the price of the four *per cents.* six weeks ago, he has tampered with a pitiful portion of a commodity,

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which ought never to have been touched but in gross. He has given notice to the holders of that stock, of a design formed by government to prevail upon them to surrender it by degrees, consequently, has warned them to hold up and enhance the price: so that the plan of reducing the four *per cents.* must either be dropped entirely, or continued with an increasing disadvantage to the public. The Minister's sagacity has served to raise the value of the thing he means to purchase, and to sink that of the three *per cents.* which it is his purpose to sell. In effect, he has contrived to make it the interest of the proprietor of the four *per cents.* to sell out, and buy three *per cents.* in the market, rather than subscribe his stock upon any terms that can possibly be offered by government.

The state of the nation leads us naturally to consider the situation of the King. The prorogation of Parliament has the effect of a temporary dissolution. The odium of measures adopted by the collective body sits lightly upon the separate members who composed it. They retire into summer quarters, and rest from the disgraceful labours of the campaign. But as for the Sovereign, *it is not so with him:* he has a permanent existence in this country;

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he cannot withdraw himself from the complaints, the discontents, the reproaches of his subjects. They pursue him to his retirement, and invade his domestic happiness, when no address can be obtained from an obsequious Parliament to encourage or console him. In other times, the interest of the King and people of England, was, as it ought to be, entirely the same. A new system has not only been adopted in fact, but professed upon principle. Ministers are no longer the public servants of the state, but the private domestics of the Sovereign. One* particular class of men are permitted to call themselves the King's friends, as if the body of the people were the King's enemies; or, as if his Majesty looked for a resource or consolation in the attachment of a few favourites, against the general contempt or detestation of his subjects. Edward and Richard the Second, made the same distinction between the collective body of the people, and a contemptible party, who surrounded the throne. The event of their mistaken conduct might have been a warning to their successors. Yet the errors of those princes were not

* "An ignorant, mercenary, and servile crew; unanimous in evil, diligent in mischief, variable in principles, constant to flattery, talkers for liberty, but slaves to power; styling themselves the court party, and the Prince's only friends." *Davenant.*

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without excuse. They had as many false friends as our present gracious Sovereign, and infinitely greater temptations to seduce them. They were neither sober, religious, nor demure. Intoxicated with pleasure, they wasted their inheritance in pursuit of it. Their lives were like a rapid torrent, brilliant in prospect, though useless or dangerous in its course. In the dull, unanimated existence of other princes, we see nothing but a sickly stagnant water, which taints the atmosphere, without fertilizing the soil. The morality of a King is not to be measured by vulgar rules. His situation is singular. There are faults which do him honour, and virtues that disgrace him. A faultless, insipid equality, in his character, is neither capable of virtue or vice in the extreme; but it secures his submission to those persons whom he has been accustomed to respect, and makes him a dangerous instrument of *their* ambition. Secluded from the world, attached from his infancy to one set of persons, and one set of ideas, he can neither open his heart to new connexions, nor his mind to better information. A character of this sort, is the soil fittest to produce that obstinate bigotry in politics and religion, which begins with a meritorious sacrifice of the understanding, and finally conducts the monarch and the martyr to the block. At any other period, I doubt not, the scandalous

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disorders which have been introduced into the government of all the dependencies in the empire, would have roused the attention of the public. The odious abuse and prostitution of the prerogative at home; the unconstitutional employment of the military; the arbitrary fines and commitments by the House of Lords and Court of King's-Bench; the mercy of a chaste and pious Prince, extended cheerfully to a wilful murderer, because that murderer is the brother of a common prostitute*; would, I think, at any other time, have excited universal indignation. But the daring attack upon the constitution, in the Middlesex election, makes us callous and indifferent to inferior grievances. No man regards an eruption upon the surface, when the noble parts are invaded, and he feels a mortification approaching to his heart. The free election of our representatives in Parliament comprehends, because it is, the source and security of every right and privilege of the English nation. The Ministry have realised the compendious ideas of Caligula. They know that the liberty, the laws, and property of an Englishman, have, in truth, but one neck, and that, to violate the freedom of election, strikes deeply at them all. JUNIUS.

* Miss Kennedy.

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LETTER XL.

TO LORD NORTH.

MY LORD, August 22, 1770.

MR. Luttrell's services were the chief support and ornament of the Duke of Grafton's administration. The honour of rewarding them was reserved for your Lordship. The Duke, it seems, had contracted an obligation he was ashamed to acknowledge, and unable to acquit. You, my Lord, had no scruples. You accepted the succession with all its incumbrances, and have paid Mr. Luttrell his legacy, at the hazard of ruining the estate.

When this accomplished youth declared himself the champion of government, the world was busy, enquiring what honours or emoluments could be a sufficient recompence to a young man of his rank and fortune, for submitting to mark his entrance into life with the universal contempt and detestation of his country. His noble father had not been so precipitate. To vacate his seat in Parliament; to intrude upon a country in which he had no interest or connec-

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W. Ridley sculp.

Lord North.

Published by Vernor & Hood, 31 Poultry, April 1st 1798.

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tion; to possess himself of another man's right, and to maintain it in defiance of public shame, as well as justice, bespoke a degree of zeal, or of depravity, which all the favour of a pious Prince could hardly requite. I protest, my Lord, there is in this young man's conduct a strain of prostitution, which, for its singularity, I cannot but admire. He has discovered a new line in the human character; he has degraded even the name of Luttrell, and gratified his father's most sanguine expectations.

The Duke of Grafton, with every possible disposition to patronize this kind of merit, was contented with pronouncing Colonel Luttrell's panegyric. The gallant spirit, the disinterested zeal, of the young adventurer, were echoed through the House of Lords. His Grace repeatedly pledged himself to the House, as an evidence of the purity of his friend Mr. Luttrell's intentions, that he had engaged without any prospect of personal benefit, and that the idea of compensation would mortally offend him*.— The noble Duke could hardly be in earnest; but he had lately quitted his employment, and began to think it necessary to take some care of his

* He now says, that his great object is the rank of colonel, and that he *will* have it.

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reputation. At that very moment the Irish negociation was probably begun. Come forward, thou worthy representative of Lord Bute, and tell this insulted country, who advised the King to appoint Mr. Luttrell adjutant-general to the army in Ireland. By what management was Colonel Cuninghame prevailed on to resign his employment, and the obsequious Gisborne to accept of a pension for the government of Kinsale*? Was it an original stipulation with the Princess of Wales; or does he owe his preferment to your Lordship's partiality, or to the Duke of Bedford's friendship? My Lord, though it may not be possible to trace this measure to its source, we can follow the stream, and warn the country of its approaching destruction. The English nation must be roused, and put upon its guard. Mr. Luttrell has already shown us, how far he may be trusted, whenever an open attack

* This infamous transaction ought to be explained to the public. Colonel Gisborne was quarter-master-general in Ireland. Lord Townshend persuaded him to resign to a Scotch officer, one Frazer, and gives him the government of Kinsale. Colonel Cuninghame was adjutant-general in Ireland. Lord Townshend offers him a pension, to induce him to resign to Luttrell. Cuninghame treats the offer with contempt. What's to be done? Poor Gisborne must move once more. He accepts of a pension of 500l. a year, until a government of greater value shall become vacant. Colonel Cuninghame is made governor of Kinsale; and Luttrell, at last, for whom the whole machinery is put in motion, becomes adjutant-general, and, in effect, takes the command of the army in Ireland.

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is to be made upon the liberties of this country. I do not doubt that there is a deliberate plan formed. Your Lordship best knows by whom. The corruption of the legislative body on this side, a military force on the other, and then, *farewell to England!* It is impossible that any Minister shall dare to advise the King to place such a man as Luttrell in the confidential post of adjutant-general, if there were not some secret purpose in view, which only such a man as Luttrell is fit to promote. The insult offered to the army, in general, is as gross as the outrage intended to the people of England. What! Lieutenant-Colonel Luttrell adjutant-general of an army of sixteen thousand men! One would think his Majesty's campaigns at Blackheath and Wimbledon might have taught him better. I cannot help wishing General Harvey joy of a colleague who does so much honour to the employment.—But, my Lord, this measure is too daring to pass unnoticed, too dangerous to be received with indifference or submission. You shall not have time to new model the Irish army. They will not submit to be garbled by Colonel Luttrell. As a mischief to the English constitution, (for he is not worth the name of enemy) they already detest him. As a boy, impudently thrust

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over their heads, they will receive him with indignation and contempt. As for you, my Lord, who, perhaps, are no more than the blind, unhappy instrument of Lord Bute and her Royal Highness the Princess of Wales, be assured, that you shall be called upon to answer for the advice which has been given, and either discover your accomplices, or fall a sacrifice to their security.

JUNIUS.

LETTER XLI.

TO THE

RIGHT HONOURABLE LORD MANSFIELD.

MY LORD, November 14, 1770.

THE appearance of this letter will attract the curiosity of the public, and command even your Lordship's attention. I am considerably in your debt, and shall endeavour, once for all, to balance the account. Accept of this address, my Lord, as a prologue to more important scenes, in which you will probably be called upon to act or suffer.

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You will not question my veracity, when I assure you, that it has not been owing to any particular respect for your person that I have abstained from you so long. Besides the distress and danger with which the press is threatened, when your Lordship is party, and the party is to be judge, I confess I have been deterred by the difficulty of the task. Our language has no term of reproach, the mind has no idea of detestation, which has not already been happily applied to you, and exhausted. Ample justice has been done, by abler pens than mine, to the separate merits of your life and character. Let it be my humble office to collect the scattered sweets, till their united virtue tortures the sense.

Permit me to begin with paying a just tribute to Scotch sincerity, wherever I find it. I own, I am not apt to confide in the professions of gentlemen of that country; and, when they smile, I feel an involuntary emotion to guard myself against mischief. With this general opinion of an ancient nation, I always thought it much to your Lordship's honour, that, in your earlier days, you were but little infected with the prudence of your country. You had some original attachments, which you took every proper opportunity to acknowledge. The liberal,

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spirit of youth prevailed over your native discretion. Your zeal in the cause of an unhappy Prince was expressed with the sincerity of wine, and some of the solemnities of religion*. This, I conceive, is the most amiable point of view in which your character has appeared. Like an honest man, you took that part in politics, which might have been expected from your birth, education, country, and connexions. There was something generous in your attachment to the banished House of Stuart. We lament the mistakes of a good man, and do not begin to detest him until he affects to renounce his principles. Why did you not adhere to that loyalty you once professed? Why did you not follow the example of your worthy brother†? With him you might have shared in the honour of the Pretender's confidence; with him you might have preserved the integrity of your character; and England, I think, might have spared you without regret. Your friends will say, perhaps, that, although you deserted the fortune of your liege Lord, you have adhered firmly to the principles

* This man was always a rank Jacobite. Lord Bevans' worth produced the most satisfactory evidence of his having frequently drank the Pretender's health on his knees.

† Confidential Secretary to the late Pretender. This circumstance confirmed the friendship between the brothers.

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which drove his father from the throne; that, without openly supporting the person, you have done essential service to the cause; and consoled yourself for the loss of a favourite family, by reviving and establishing the maxims of their government. This is the way in which a Scotchman's understanding corrects the errors of his heart. My Lord, I acknowledge the truth of the defence, and can trace it through all your conduct. I see through your whole life one uniform plan to enlarge the power of the Crown, at the expence of the liberty of the subject. To this object your thoughts, words, and actions have been constantly directed. In contempt or ignorance of the common law of England, you have made it your study to introduce into the court where you preside, maxims of jurisprudence unknown to Englishmen. The Roman code, the law of nations, and the opinion of foreign civilians, are your perpetual theme; but, who ever heard you mention Magna Charta, or the Bill of Rights, with approbation or respect? By such treacherous arts the noble simplicity and free spirit of our Saxon laws were first corrupted. The Norman conquest was not complete, until Norman lawyers had introduced their laws, and reduced slavery to a system.—This one leading principle directs your interpre-

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tation of the laws, and accounts for your treatment of juries. It is not in political questions only (for there the courtier might be forgiven) but let the cause be what it may, your understanding is equally on the rack, either to contract the power of the jury, or to mislead their judgment. For the truth of this assertion, I appeal to the doctrine you delivered in Lord Grosvenor's cause. An action for criminal conversation being brought by a Peer against a Prince of the Blood, you were daring enough to tell the jury, that, in fixing the damages, they were to pay no regard to the quality or fortune of the parties; that it was a trial between A and B; that they were to consider the offence in a moral light only, and give no greater damages to a peer of the realm, than to the meanest mechanic. I shall not attempt to refute a doctrine, which, if it was meant for law, carries falsehood and absurdity upon the face of it; but, if it was meant for a declaration of your political creed, is clear and consistent. Under an arbitrary government, all ranks and distinctions are confounded. The honour of a nobleman is no more considered than the reputation of a peasant; for, with different liveries, they are equally slaves.

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Even in matters of private property, we see the same bias and inclination to depart from the decisions of your predecessors, which you certainly ought to receive as evidence of the common law. Instead of those certain positive rules by which the judgment of a court of law should invariably be determined, you have fondly introduced your own unsettled notions of equity and substantial justice. Decisions given upon such principles do not alarm the public so much as they ought, because the consequence and tendency of each particular instance is not observed or regarded. In the mean time, the practice gains ground; the Court of King's Bench becomes a court of equity; and the Judge, instead of consulting strictly the law of the land, refers only to the wisdom of the court, and to the purity of his own conscience. The name of Mr. Justice Yates will naturally revive in your mind, some of those emotions of fear and detestation with which you always beheld him. That great lawyer, that honest man, saw your whole conduct in the light that I do.—After years of ineffectual resistance to the pernicious principles introduced by your Lordship, and uniformly supported by your *humble friends* upon the bench, he determined to quit a court, whose proceedings and decisions he could nei-

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ther assent to with honour, nor oppose with success.

The injustice done to an individual * is sometimes of service to the public. Facts are apt to alarm us more than the most dangerous principles. The sufferings and firmness of a printer have roused the public attention. You knew and felt that your conduct would not bear a parliamentary inquiry; and you hoped to escape it by the meanest, the basest sacrifice of dignity and consistency that ever was made by a great magistrate. Where was your firmness, where was that vindictive spirit, of which we have seen so many examples, when a man so inconsiderable as Bingley could force you to confess, in the face of this country, that, for two years together, you had illegally deprived an English subject of his liberty, and that he had triumphed over you at last? Yet I own, my Lord, that yours is not an uncommon character. Women, and men like women, are timid, vindictive, and irresolute. Their passions counteract each other; and make the same creature at one moment hateful, at another contemptible. I fancy, my Lord, some

* The oppression of an obscure individual gave birth to the famous Habeas Corpus Act of 31 Car. II. which is frequently considered as another Magna Charta of this kingdom.
Blackstone, iii. 135.

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time will elapse before you venture to commit another Englishman for refusing to answer interrogatories*.

The doctrine you have constantly delivered, in cases of libel, is another powerful evidence of a settled plan to contract the legal power of juries, and to draw questions, inseparable from fact, within the *arbitrium* of the court. Here, my Lord, you have fortune on your side. When you invade the province of the jury, in matter of libel, you, in effect, attack the liberty of the press, and, with a single stroke, wound two of your greatest enemies. In some instances you have succeeded, because jurymen are too often ignorant of their own rights, and too apt to be awed by the authority of a chief justice. In other criminal prosecutions, the malice of the design is confessedly as much the subject of consideration to a jury as the certainty of the fact. If a different doctrine prevails in the case of libels, why should it not extend to *all* criminal

* Bingley was committed for contempt, in not submitting to be examined. He lay in prison two years, until the Crown thought the matter might occasion some serious complaint, and therefore he was let out, in the same contumelious state he had been put in, with all his sins about him, unanointed and unanealed. There was much coquetry between the Court and the Attorney General, about who should undergo the ridicule of letting him escape. *Vide another Letter to Almon*, p. 199.

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cases? Why not to capital offences? I see no reason (and I dare say you will agree with me, that there is no good one) why the life of the subject should be better protected against you than his liberty or property. Why should you enjoy the full power of pillory, fine, and imprisonment, and not be indulged with hanging or transportation? With your Lordship's fertile genius and merciful disposition, I can conceive such an exercise of the power you have, as could hardly be aggravated by that which you have not.

But, my Lord, since you have laboured (and not unsuccessfully) to destroy the substance of *the trial*, why should you suffer the form of the *verdict* to remain? Why force twelve honest men, in palpable violation of their oaths, to pronounce their fellow-subject a *guilty* man, when, almost at the same moment, you forbid their inquiring into the only circumstance which, in the eye of law and reason, constitutes guilt—the malignity or innocence of his intentions? But I understand your Lordship. If you could succeed in making the trial by jury useless and ridiculous, you might then, with greater safety, introduce a bill into parliament for enlarging the jurisdiction of the court, and extending your

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favourite trial by interrogatories to every question in which the life or liberty of an Englishman is concerned*.

Your charge to the jury, in the prosecution against Almon and Woodfall, contradicts the highest legal authorities, as well as the plainest dictates of reason. In Miller's cause, and still more expressly in that of Baldwin, you have proceeded a step farther, and grossly contradicted yourself. You may know, perhaps, though I do not mean to insult you by an appeal to your experience, that the language of truth is uniform and consistent. To depart from it safely, requires memory and discretion. In the two last trials, your charge to the jury began, as usual, with assuring them, that they had nothing to do with the law; that they were to find the bare fact, and not concern themselves about the legal inferences drawn from it, or the

* The philosophical poet doth notably describe the damnable and damned proceedings of the judge of hell,

"Gnossius hæc Rhadamanthus habet durissima regna,
"Castigatque, auditque dolos, *subigitque fateri.*"

First he punisheth, and *then* he heareth, and lastly compelleth to confess, and makes and mars laws at his pleasure: like as the Centurion, in the holy history, did to St. Paul; for the text saith, "Centurio apprehendi Paulum jussit, & se catenis ligari, & *tunc interrogabat*, quis fuisset, & quid fecisset." But good judges and justices abhor these courses. *Coke, 2 Inst. 53.*

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degree of the defendant's guilt. Thus far you were consistent with your former practice. But how will you account for the conclusion? You told the jury, that "if, after all, they would "take upon themselves to determine the law, "*they might do it*, but they must be very sure "that they determined according to law; for it "touched their consciences, and they acted at "their peril." If I understand your first proposition, you mean to affirm, that the jury were not competent judges of the law in the criminal case of a libel; that it did not fall within *their* jurisdiction; and that, with respect to *them*, the malice or innocence of the defendant's intentions would be a question *corum non judice*. But the second proposition clears away your own difficulties, and restores the jury to all their judicial capacities. * You make the competence of the court to depend upon the legality of the decision. In the first instance, you deny the power absolutely: in the second, you admit the power, provided it be legally exercised. Now, my Lord, without pretending to reconcile the distinctions of Westminster-hall with the simple

* Directly the reverse of the doctrine he constantly maintained in the House of Lords, and elsewhere, upon the decision of the Middlesex election. He invariably asserted, that the decision must be *legal* because the court was *competent*; and never could be prevailed on to enter farther into the question.

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information of common sense, or the integrity of fair argument, I shall be understood by your Lordship, when I assert, that, if a jury, or any other court of judicature (for jurors are judges) have no right to enter into a cause or question of law, it signifies nothing whether their decision be or be not according to law. Their decision is, in itself, a mere nullity: the parties are not bound to submit to it: and, if the jury run any risk of punishment, it is not for pronouncing a corrupt or illegal verdict, but for the illegality of meddling with a point on which they have no legal authority to decide*.

I cannot quit this subject without reminding your Lordship of the name of Mr. Benson. Without offering any legal objection, you ordered a special juryman to be set aside, in a cause where the King was prosecutor. The novelty of the fact required explanation.—Will you condescend to tell the world by what law or custom you were authorized to make a peremptory challenge of a juryman? The parties,

* These iniquitous prosecutions cost the best of Princes six thousand pounds, and ended in the total defeat and disgrace of the prosecutors. In the course of one of them, Judge Aston had the unparalleled impudence to tell Mr. Morris, a gentleman of unquestionable honour and integrity, and who was then giving his evidence on oath, that *he should pay very little regard to any affidavit he should make.*

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indeed, have this power; and, perhaps, your Lordship, having accustomed yourself to unite the characters of judge and party, may claim it in virtue of the new capacity you have assumed, and profit by your own wrong. The time within which you might have been punished for this daring attempt to pack a jury, is, I fear, elapsed; but no length of time shall erase the record of it.

The mischiefs you have done this country are not confined to your interpretation of the laws. You are a minister, my Lord; and, as such, have long been consulted. Let us candidly examine what use you have made of your ministerial influence. I will not descend to little matters, but come at once to those important points on which your resolution was waited for, on which the expectation of your opinion kept a great part of the nation in suspense. A constitutional question arises upon a declaration of the law of parliament, by which the freedom of election, and the birthright of the subject, were supposed to have been invaded. The King's servants are accused of violating the constitution. The nation is in a ferment. The ablest men of all parties engage in the question, and exert their utmost abilities in the discussion of it.

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What part has the honest Lord Mansfield acted? As an eminent judge of the law, his opinion would have been respected. As a peer, he had a right to demand an audience of his Sovereign, and inform him, that his Ministers were pursuing unconstitutional measures. Upon other occasions, my Lord, you have no difficulty in finding your way into the closet. The pretended neutrality of belonging to no party will not save your reputation. In a question merely political, an honest man may stand neuter. But the laws and constitution are the general property of the subject: not to defend, is to relinquish: and who is there so senseless as to renounce his share in a common benefit, unless he hopes to profit by a new division of the spoil? As a Lord of Parliament, you were repeatedly called upon to condemn or defend the new law declared by the House of Commons. You affected to have scruples, and every expedient was attempted to remove them. The question was proposed and urged to you in a thousand different shapes. Your prudence still supplied you with evasion; your resolution was invincible. For my own part, I am not anxious to penetrate this solemn secret. I care not to whose wisdom it is entrusted, nor how soon you carry it with you to

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your grave*. You have betrayed your opinion by the very care you have taken to conceal it. It is not from Lord Mansfield that we expect any reserve in declaring his real sentiments in favour of government, or in opposition to the people; nor is it difficult to account for the motions of a timid, dishonest heart, which neither has virtue enough to acknowledge truth, or courage to contradict it. Yet you continue to support an Administration which you know is universally odious, and which, on some occasions, you yourself speak of with contempt. You would fain be thought to take no share in government, while, in reality, you are the main spring of the machine. Here, too, we trace the *little*, prudential policy of a Scotchman. Instead of acting that open, generous part which becomes your rank and station, you meanly skulk into the closet, and give your Sovereign such advice as you have not spirit to avow or defend. You secretly engross the power, while you decline the title of a minister; and though you dare not be Chancellor, you know how to secure the emoluments of the office. Are the seals to be for ever in commission, that you may enjoy

* He said, in the House of Lords, That he believed he should carry his opinion with him to the grave. It was afterwards reported, that he had entrusted it, in special confidence, to the ingenious Duke of Cumberland.

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five thousand pounds a year? I beg pardon, my Lord; your fears have interposed at last, and forced you to resign. The odium of continuing Speaker of the House of Lords, upon such terms, was too formidable to be resisted. What a multitude of bad passions are forced to submit to a constitutional infirmity! But though you have relinquished the salary, you still assume the rights of a Minister. Your conduct, it seems, must be defended in Parliament. For what other purpose is your wretched friend, that miserable serjeant, posted to the House of Commons? Is it in the abilities of a Mr. Leigh to defend the great Lord Mansfield? Or is he only the Punch of the puppet-show, to speak as he is prompted by the chief juggler behind the curtain*?

In public affairs, my Lord, cunning, let it be ever so well wrought, will not conduct a man honourably through life. Like bad money, it may be current for a time, but it will soon be cried down. It cannot consist with a liberal spirit, though it be sometimes united with extraordinary qualifications. When I acknowledge your abilities, you may believe I am sincere. I

* This paragraph gagged poor *Leigh*. I am really concerned for the man, and wish it were possible to open his mouth---He is a very pretty orator.

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feel for human nature when I see a man, so gifted as you are, descend to such vile practices. Yet do not suffer your vanity to console you too soon. Believe me, my good Lord, you are not admired in the same degree in which you are detested. It is only the partiality of your friends that balances the defects of your heart with the superiority of your understanding. No learned man, even among your own tribe, thinks you qualified to preside in a court of common law. Yet it is confessed, that, under *Justinian*, you might have made an incomparable *prætor*. It is remarkable enough, but I hope not ominous, that the laws you understand best, and the judges you affect to admire most, flourished in the decline of a great empire, and are supposed to have contributed to its fall.

Here, my Lord, it may be proper for us to pause together. It is not for my own sake that I wish you to consider the delicacy of your situation. Beware how you indulge the first emotions of your resentment. This paper is delivered to the world, and cannot be recalled. The prosecution of an innocent printer cannot alter facts, nor refute arguments. Do not furnish me with farther materials against yourself. An honest man, like the true religion, appeals to the unde-

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standing, or modestly confides in the internal evidence of his conscience. The impostor employs force instead of argument, imposes silence where he cannot convince, and propagates his character by the sword.

JUNIUS.

LETTER XLII.

TO THE

PRINTER OF THE PUBLIC ADVERTISER.

SIR, January 30, 1771.

IF we recollect in what manner the *King's friends* have been constantly employed, we shall have no reason to be surprised at any condition of disgrace to which the once respected name of Englishmen may be degraded. His Majesty has no cares, but such as concern the laws and constitution of this country. In his Royal breast there is no room left for resentment, no place for hostile sentiments against the natural enemies of his Crown. The system of government is uniform. Violence and oppression at home can only be supported by treachery and submission abroad. When the civil rights of the people are daringly invaded on one side,

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what have we to expect, but that their political rights should be deserted and betrayed, in the same proportion, on the other? The plan of domestic policy, which has been invariably pursued from the moment of his present Majesty's accession, engrosses all the attention of his servants. They know that the security of their places depends upon their maintaining, at any hazard, the secret system of the closet. A foreign war might embarrass, an unfavourable event might ruin, the Minister, and defeat the deep-laid scheme of policy to which he and his associates owe their employments. Rather than suffer the execution of that scheme to be delayed or interrupted, the King has been advised to make a public surrender, a solemn sacrifice, in the face of all Europe, not only of the interests of his subjects, but of his own personal reputation, and of the dignity of that crown which his predecessors have worn with honour. These are strong terms, Sir, but they are supported by fact and argument.

The King of Great Britain had been for some years in possession of an island, to which, as the Ministry themselves have repeatedly asserted, the Spaniards had no claim of right. The importance of the place is not in question. If it

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were, a better judgment might be formed of it, from the opinion of Lord Anson and Lord Egmont, and from the anxiety of the Spaniards, than from any fallacious insinuations thrown out by men, whose interest it is to undervalue that property which they are determined to relinquish. The pretensions of Spain were a subject of negociation between the two courts. They had been discussed, but not admitted. The King of Spain, in these circumstances, bids adieu to amicable negociation, and appeals directly to the sword. The expedition against Port Egmont does not appear to have been a sudden, ill-concerted enterprise: It seems to have been conducted not only with the usual military precautions, but in all the forms and ceremonies of war. A frigate was first employed to examine the strength of the place. A message was then sent, demanding immediate possession, in the Catholic King's name, and ordering our people to depart. At last, a military force appears, and compels the garrison to surrender. A formal capitulation ensues; and his Majesty's ship, which might at least have been permitted to bring home his troops immediately, is detained in port twenty days, and her rudder forcibly taken away. This train of facts carries no appearance of the rashness or violence of a Spa-

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nish governor. On the contrary, the whole plan seems to have been formed, and executed, in consequence of deliberate orders, and a regular instruction, from the Spanish court. Mr. Buccarelli is not a pirate, nor has he been treated as such by those who employed him. I feel for the honour of a gentleman, when I affirm that our King owes him a signal reparation. Where will the humiliation of this country end? A King of Great Britain, not contented with placing himself upon a level with a Spanish governor, descends so low as to do a notorious injustice to that governor. As a salvo for his own reputation, he has been advised to traduce the character of a brave officer, and to treat him as a common robber, when he knew, with certainty, that Mr. Buccarelli had acted in obedience to his orders, and had done no more than his duty. Thus it happens, in private life, with a man who has no spirit, nor sense of honour. One of his equals orders a servant to strike him. Instead of returning the blow to the master, his courage is contented with throwing an aspersion, equally false and public, upon the character of the servant.

This short recapitulation was necessary to introduce the consideration of his Majesty's speech

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of the 13th of November, 1770, and the subsequent measures of government. The excessive caution with which the speech was drawn up, had impressed upon me an early conviction, that no serious resentment was thought of, and that the conclusion of the business, whenever it happened, must, in some degree, be dishonourable to England. There appears, through the whole speech, a guard and reserve in the choice of expression, which shews how careful the Ministry were, not to embarrass their future projects by any firm or spirited declaration from the throne. When all hopes of peace are lost, his Majesty tells his Parliament, that he is preparing—not for barbarous war, but (with all his mother's softness) *for a different situation.* An open hostility, authorised by the Catholic King, is called *an act of a governor.* This act, to avoid the mention of a regular siege and surrender, passes under the piratical description of *seizing by force;* and the thing taken is described, not as a part of the King's territory, or proper dominion, but merely as a *possession;* a word expressly chosen in contradiction to, and exclusion of the ideas of, *right*, and to prepare us for a future surrender both of the right and of the possession. Yet this speech, Sir, cautious and equivocal as it is, cannot, by the sophistry,

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be accommodated to the measures which have since been adopted. It seemed to promise, that, whatever might be given up by secret stipulation, some care would be taken to save appearances to the public. The event shows us, that, to depart, in the minutest article, from the nicety and strictness of punctilio, is as dangerous to national honour, as to female virtue.—The woman who admits of one familiarity, seldom knows where to stop, or what to refuse; and, when the counsels of a great country give way, in a single instance, when they once are inclined to submission, every step accelerates the rapidity of the descent. The Ministry themselves, when they framed the speech, did not foresee that they should ever accede to such an accommodation as they have since advised their Master to accept of.

The King says, *The honour of my crown, and the rights of my people, are deeply affected.* The Spaniard, in his reply, says, *I will give you back possession, but I adhere to my claim of prior right, reserving the assertion of it for a more favourable opportunity.*

The speech says, *I made an immediate demand of satisfaction; and, if that fails, I am prepared*

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to do myself justice. This immediate demand must have been sent to Madrid on the 12th of September, or in a few days after. It was certainly refused, or evaded, and the King has not done himself justice. When the first Magistrate speaks to the nation, some care should be taken of his apparent veracity.

The speech proceeds to say, *I shall not discontinue my preparations, until I have received proper reparation for the injury.* If this assurance may be relied on, what an enormous expence is entailed *sine die* upon this unhappy country!—Restitution of a possession, and reparation of an injury, are as different in substance as they are in language. The very act of restitution may contain, as in this instance it palpably does, a shameful aggravation of the injury. A man of spirit does not measure the degree of an injury by the mere positive damage he has sustained; he considers the principle on which it is founded; he resents the superiority asserted over him; and rejects, with indignation, the claim of right which his adversary endeavours to establish, and would force him to acknowledge.

The motives on which the Catholic King makes restitution, are, if possible, more insolent and

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disgraceful to our Sovereign, than even the declaratory condition annexed to it. After taking four months to consider whether the expedition was undertaken by his own orders or not, he condescends to disavow the enterprize, and to restore the island: not from any regard to justice, not from any regard he bears to his Britannic Majesty, but merely *from the persuasion in which he is of the pacific sentiments of the King of Great Britain.*

At this rate, if our King had discovered the spirit of a man; if he had made a peremptory demand of satisfaction, the King of Spain would have given him a peremptory refusal. But why this unseasonable, this ridiculous mention of the King of Great Britain's pacific intentions? Have they ever been in question? Was he the aggressor? Does he attack foreign powers without provocation? Does he even resist, when he is insulted? No, Sir; if any ideas of strife or hostility have entered his royal mind, they have a very different direction. The enemies of England have nothing to fear from them.

After all, Sir, to what kind of disavowal has the King of Spain at last consented? Supposing it made in proper time, it should have been so-

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compained with instant restitution: and if Mr. Buccarelli acted without orders, he deserved death. Now, Sir, instead of immediate restitution, we have a four months' negociation: and the officer, whose act is disavowed, returns to court, and is loaded with honours.

If the actual situation of Europe be considered, the treachery of the King's servants, particularly of Lord North, who takes the whole upon himself, will appear in the strongest colours of aggravation. Our allies were masters of the Mediterranean. The King of France's present aversion from war, and the distraction of his affairs, are notorious. He is now in a state of war with his people. In vain did the Catholic King solicit him to take part in the quarrel against us. His finances were in the last disorder; and it was probable that his troops might find sufficient employment at home. In these circumstances, we might have dictated the law to Spain. There are no terms to which she might not have been compelled to submit. At the worst, a war with Spain alone carries the fairest promise of advantage. One good effect, at least, would have been immediately produced by it. The desertion of France would have irritated her ally, and, in all probability, have dis-

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solved the family compact. The scene is now fatally changed. The advantage is thrown away. The most favourable opportunity is lost. Hereafter we shall know the value of it. When the French King is reconciled to his subjects—when Spain has completed her preparations—when the collected strength of the House of Bourbon attacks us at once, the King himself will be able to determine upon the wisdom or imprudence of his present conduct. As far as the probability of argument extends, we may safely pronounce, that a conjuncture, which threatens the very being of this country, has been wilfully prepared and forwarded by our own Ministry. How far the people may be animated to resistance, under the present administration, I know not; but this I know, with certainty, that, under the present administration, or if any thing like it should continue, it is of very little moment whether we are a conquered nation or not*.

* The King's acceptance of the Spanish ambassador's declaration, is drawn up in barbarous French, and signed by the Earl of Rochford. This diplomatic Lord has spent his life in the study and practice of *etiquettes*, and is supposed to be a profound master of the ceremonies. I will not insult him by any reference to grammar or common sense: if he were even acquainted with the common forms of his office, I should think him as well qualified for it as any man in his Majesty's service. The reader is requested to observe Lord Rochford's method of authenticating a public instrument.—

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Having travelled thus far in the high road of matter of fact, I may now be permitted to wander a little into the field of imagination. Let us banish from our minds the persuasion, that these events have really happened in the reign of the best of Princes; let us consider them as nothing more than the materials of a fable, in which we may conceive the Sovereign of some other country to be concerned. I mean to violate all the laws of probability, when I suppose that this imaginary King, after having voluntarily disgraced himself in the eyes of his subjects, might return to a sense of his dishonour; that he might perceive the snare laid for him by his Ministers, and feel a spark of shame kindling in his breast. The part he must then be obliged to act would overwhelm him with confusion. To his Parliament he must say, *I called you together to receive your advice, and have never asked your opinion.*—To the merchant, *I have distressed your commerce; I have dragged your seamen out of your ships; I have loaded you with a grievous weight of insurances.*—To the landholder. *I told you war was too probable, when I was deter-*

" En foi de quoi, *moi* soussigne, un des principaux Secre-
" taires d'Etat S. M. B. *ai* signe la presente de ma signature
" ordinaire, et icelle fait opposer le cachet de *nos* Armei."
In three lines there are no less than seven false concords. But the man does not even know the style of his office. If he had known it, he would have said, "*Nous*, soussigne Secretaire d'Etat de S. M. B. *avons* signe," &c.

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mined to submit to any terms of accommodation: I extorted new taxes from you, before it was possible they could be wanted, and am now unable to account for the application of them.—To the public creditor, *I have delivered up your fortune a prey to foreigners, and to the vilest of your fellow subjects.* Perhaps this repenting Prince might conclude with one general acknowledgment to them all: *I have involved every rank of my subjects in anxiety and distress; and have nothing to offer you, in return, but the certainty of national dishonour, an armed truce, and peace without security.*

If these accounts were settled, there would still remain an apology to be made to his navy and to his army. To the first he would say,—*You were once the terror of the world. But go back to your harbours. A man, dishonoured as I am, has no use for your service.* It is not probable that he would appear again before his soldiers, even in the pacific ceremony of a review*. But, wherever he appeared, the humiliating confession would be extorted from him: *I have received a blow, and had not spirit to resent it. I demanded satisfaction, and have*

* A mistake: he appears before them every day, with a mark of a blow upon his face. *Proh pudor!*

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accepted a declaration, in which the right to strike me again is asserted and confirmed. His countenance, at least, would speak this language, and even his guards would blush for him.

But to return to our argument. The Ministry, it seems, are labouring to draw a line of distinction between the honour of the crown and the rights of the people. This new idea has yet only been started in discourse; for, in effect, both objects have been equally sacrificed. I neither understand the distinction, nor what use the Ministry propose to make of it. The King's honour is that of his people. *Their* real honour and real interest are the same. I am not contending for a vain punctilio. A clear, unblemished character comprehends not only the integrity that will not offer, but the spirit that will not submit to an injury; and whether it belongs to an individual, or to a community, it is the foundation of peace, of independence, and of safety. Private credit is wealth; public honour is security. The feather that adorns the royal bird, supports his flight. Strip him of his plumage, and you fix him to the earth.

JUNIUS.

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LETTER XLIII.

TO THE

PRINTER OF THE PUBLIC ADVERTISER.

SIR, February 6, 1771.

I HOPE your Correspondent Junius is better employed than in answering or reading the criticisms of a newspaper. This is a task, from which, if he were inclined to submit to it, his friends ought to relieve him. Upon this principle, I shall undertake to answer Anti-Junius, more, I believe, to his conviction, than to his satisfaction. Not daring to attack the main body of Junius's last letter, he triumphs in having, as he thinks, surprised an out-post, and cut off a detached argument, a mere straggling proposition. But even in this petty warfare he shall find himself defeated.

Junius does not speak of the Spanish nation as the *natural enemies* of England; he applies that description, with the strictest truth and justice, to the Spanish court. From the moment, when a Prince of the house of Bourbon ascended that throne, their whole system of govern-

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ment was inverted, and became hostile to this country. Unity of possession introduced a unity of politics; and Lewis the Fourteenth had reason, when he said to his grandson, "*The Pyrenees are removed.*" The history of the present century is one continued confirmation of the prophecy.

The assertion, "*That violence and oppression at home, can only be supported by treachery and submission abroad,*" is applied to a free people, whose rights are invaded, not to the government of a country, where despotic or absolute power is confessedly vested in the Prince; and, with this application, the assertion is true. An absolute monarch having no points to carry at home, will naturally maintain the honour of his crown, in all his transactions with foreign powers. But, if we could suppose the sovereign of a free nation possessed with a design to make himself absolute, he would be inconsistent with himself, if he suffered his projects to be interrupted or embarrassed by a foreign war, unless that war tended, as in some cases it might, to promote his principal design. Of the three exceptions to this general rule of conduct, (quoted by Anti-Junius,) that of Oliver Cromwell is the only one in point. Harry the Eighth, by the submission

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of his Parliament, was as absolute a Prince as Lewis the Fourteenth. Queen Elizabeth's government was not oppressive to the people, and as to her foreign wars, it ought to be considered, that they were unavoidable. The national honour was not in question. She was compelled to fight in defence of her own person, and of her title to the crown. In the common cause of selfish policy, Oliver Cromwell should have cultivated the friendship of foreign powers, or, at least, have avoided disputes with them, the better to establish his tyranny at home. Had he been only a bad man, he would have sacrificed the honour of the nation to the success of his domestic policy. But, with all his crimes, he had the spirit of an Englishman. The conduct of such a man must always be an exception to vulgar rules. He had abilities sufficient to reconcile contradictions, and to make a great nation, at the same moment, unhappy and formidable. If it were not for the respect I bear the Minister, I could name a man, who, without one grain of understanding, can do half as much as Oliver Cromwell.

Whether or no there be a *secret system* in the closet, and what may be the object of it, are questions which can only be determined by ap-

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pearances, and on which every man must decide for himself.

The whole plan of Junius's letter proves, that he himself makes no distinction between the real honour of the crown and the real interest of the people. In the climax to which your correspondent objects, Junius adopts the language of the court, and, by that conformity, gives strength to his argument. He says, that "*the King has not only sacrificed the interest of* "*the people, but* (what was likely to touch him "more nearly) *his personal reputation, and the* "*dignity of his crown.*"

The queries put by Anti-Junius can only be answered by the Ministry. Abandoned as they are, I fancy they will not confess, that they have, for so many years, maintained possession of another man's property. After admitting the assertion of the Ministry, viz. *That the Spaniards had no rightful claim*, and after justifying them for saying so, it is *his* business, not *mine*, to give us some good reason for their *suffering the pretensions of Spain to be a subject of negociation*. He admits the fact; let him reconcile them if he can.

The last paragraph brings us back to the ori-

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ginal question, Whether the Spanish declaration contains such a satisfaction as the King of Great-Britain ought to have accepted? This was the field upon which he ought to have encountered Junius openly and fairly. But here he leaves the argument, as no longer defensible. I shall, therefore, conclude with one general admonition to my fellow-subjects; that, when they hear these matters debated, they should not suffer themselves to be misled by general declamations upon the conveniencies of peace, or the miseries of war. Between peace and war abstractedly, there is not, there cannot, be a question in the mind of a rational being. The real questions are, *Have we any security that the peace we have so dearly purchased will last a twelvemonth?* and if not, *Have we, or have we not, sacrificed the fairest opportunity of making war with advantage?*

PHILO JUNIUS.

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LETTER XLIV.

ADDRESSED TO THE

PRINTER OF THE PUBLIC ADVERTISER.

SIR, April 28, 1771.

To write for profit, without taxing the press; to write for fame, and to be unknown; to support the intrigues of faction, and to be disowned as a dangerous auxiliary by every party in the kingdom, are contradictions which the Minister must reconcile before I forfeit my credit with the public. I may quit the service, but it would be absurd to suspect me of desertion. The reputation of these papers is an honourable pledge for my attachment to the people. To sacrifice a respected character, and to renounce the esteem of society, requires more than Mr. Wedderburne's resolution: and though in him it was rather a profession than a desertion of his principles, (I speak tenderly of this gentleman; for, when treachery is in question, I think we should make allowances for a Scotchman) yet we have seen him in the House of Com-

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mons overwhelmed with confusion, and almost bereft of his faculties. But, in truth, Sir, I have left no room for an accommodation with the piety of St. James's. My offences are not to be redeemed by recantation or repentance. On one side, our warmest patriots would disclaim me as a burthen to their honest ambition. On the other, the vilest prostitution, if Junius could descend to it, would lose its natural merit and influence in the cabinet, and treachery be no longer a recommendation to the royal favour.

The persons, who, till within these few years, have been most distinguished by their zeal for high-church and prerogative, are now, it seems, the great assertors of the privileges of the House of Commons. This sudden alteration of their sentiments, or language, carries with it a suspicious appearance. When I hear the undefined privileges of the popular branch of the Legislature exalted by Tories and Jacobites, at the expence of those strict rights which are known to the subject, and limited by the laws, I cannot but suspect that some mischievous scheme is in agitation, to destroy both law and privilege, by opposing them to each other. They, who have uniformly denied the power of the whole Legislature to alter the descent of the

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Crown, and whose ancestors, in rebellion against his Majesty's family, have defended that doctrine at the hazard of their lives, now tell us, that privilege of Parliament is the only rule of right, and the chief security of the public freedom. I fear, Sir, that, while forms remain, there has been some material change in the substance of our constitution. The opinions of these men were too absurd to be so easily renounced. Liberal minds are open to conviction; liberal doctrines are capable of improvement. There are proselytes from atheism, but none from superstition. If their present professions were sincere, I think they could not but be highly offended at seeing a question concerning parliamentary privilege, unnecessarily started at a season so unfavourable to the House of Commons, and by so very mean and insignificant a person as the minor Onslow. They knew that the present House of Commons, having commenced hostilities with the people, and degraded the authority of the laws by their own example, were likely enough to be resisted *per fas et nefas*. If they were really friends to privilege, they would have thought the question of right too dangerous to be hazarded at this season, and, without the formality of a convention, would have left it undecided.

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I have been silent hitherto, though not from that shameful indifference about the interests of society, which too many of us profess, and call moderation. I confess, Sir, that I felt the prejudices of my education in favour of a House of Commons still hanging about me. I thought that a question between law and privilege could never be brought to a formal decision without inconvenience to the public service, or a manifest diminution of legal liberty; that it ought, therefore, to be carefully avoided: and when I saw that the violence of the House of Commons had carried them too far to retreat, I determined not to deliver a hasty opinion upon a matter of so much delicacy and importance.

The state of things is much altered in this country since it was necessary to protect our representatives against the direct power of the Crown. We have nothing to apprehend from prerogative, but every thing from undue influence. Formerly, it was the interest of the people that the privileges of Parliament should be left unlimited and undefined. At present, it is not only their interest, but I hold it to be essentially necessary to the preservation of the constitution, that the privileges of Parliament should

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be strictly ascertained, and confined within the narrowest bounds the nature of their institution will admit of. Upon the same principle on which I would have resisted prerogative in the last century, I now resist privilege. It is indifferent to me, whether the Crown, by its own immediate act, imposes new, and dispenses with old laws, or whether the same arbitrary power produces the same effects through the medium of the House of Commons. We trusted our representatives with privileges for their own defence and ours. We cannot hinder their desertion, but we can prevent their carrying over their arms to the service of the enemy. It will be said, that I begin with endeavouring to reduce the argument concerning privilege to a mere question of convenience; that I deny, at one moment, what I would allow at another; and that, to resist the power of a prostituted House of Commons, may establish a precedent injurious to all future parliaments. To this, I answer, generally, that human affairs are in no instance governed by strict positive right. If change of circumstances were to have no weight in directing our conduct and opinions, the mutual intercourse of mankind would be nothing more than a contention between positive and equitable right. Society would be a state of war, and law

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itself would be injustice. On this general ground, it is highly reasonable, that the degree of our submission to privileges which have never been defined by any positive law, should be considered as a question of convenience, and proportioned to the confidence we repose in the integrity of our representatives. As to the injury we may do to any future and more respectable House of Commons, I own I am not now sanguine enough to expect a more plentiful harvest of parliamentary virtue in one year than in another. Our political climate is severely altered; and, without dwelling upon the depravity of modern times, I think no reasonable man will expect that, as human nature is constituted, the enormous influence of the Crown should cease to prevail over the virtue of individuals. The mischief lies too deep to be cured by any remedy less than some great convulsion, which may either carry back the constitution to its original principles, or utterly destroy it. I do not doubt that, in the first session after the next election, some popular measures may be adopted. The present House of Commons have injured themselves by a too early and public profession of their principles; and if a strain of prostitution, which had no example, were within the reach of emulation, it might

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be imprudent to hazard the experiment too soon. But, after all, Sir, it it very immaterial whether a House of Commons shall preserve their virtue for a week, a month, or a year. The influence which makes a septennial parliament dependent on the pleasure of the Crown, has a permanent operation, and cannot fail of success. My premises, I know, will be denied in argument; but every man's conscience tells him they are true. It remains, then, to be considered, whether it be for the interest of the people, that privilege of Parliament* (which, in respect to the purposes for which it has hitherto been acquiesced under, is merely nominal) should be contracted within some certain limits; or, whether the subject shall be left at the mercy of a power, arbitrary upon the face of it, and notoriously under the direction of the Crown.

I do not mean to decline the question of *right;*

* The necessity of securing the House of Commons against the King's power, so that no interruption might be given either to the attendance of the members in Parliament, or to the freedom of debate, was the foundation of parliamentary privilege; and we may observe, in all the addresses of new appointed speakers to the Sovereign, the utmost privilege they demand, is liberty of speech, and freedom from arrests. The very word *privilege* means no more than immunity, or a safeguard to the party who possesses it, and can never be construed into an active power of invading the rights of others.

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on the contrary, Sir, I join issue with the advocates for privilege, and affirm, that, "excepting the cases wherein the House of Commons "are a court of judicature (to which, from the "nature of their office, a coercive power must "belong) and excepting such contempts as immediately interrupt their proceedings, they "have no legal authority to imprison any man "for any supposed violation of privilege whatsoever." It is not pretended that privilege, as now claimed, has ever been defined or confirmed by statute; neither can it be said, with any colour of truth, to be a part of the common law of England, which had grown into prescription long before we knew any thing of the existence of a House of Commons. As for the law of Parliament, it is only another name for the privilege in question; and since the power of creating new privileges has been formally renounced, by both Houses, since there is no code in which we can study the law of parliament, we have but one way left to make ourselves acquainted with it; that is, to compare the nature of the institution of a House of Commons with the facts upon record. To establish a claim of privilege in either House, and to distinguish original right from usurpation, it must appear, that it is indispensably necessary for the perform-

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ance of the duty they are employed in, and also that it has been uniformly allowed. From the first part of this description, it follows, clearly, that, whatever privilege does of right belong to the present House of Commons, did equally belong to the first assembly of their predecessors; was as completely vested in them, and might have been exercised in the same extent. From the second we must infer, that privileges, which for several centuries were not only never allowed, but never even claimed by the House of Commons, must be founded upon usurpation.—The constitutional duties of a House of Commons are not very complicated nor mysterious. They are to propose or assent to wholesome laws, for the benefit of the nation. They are to grant the necessary aids to the King; petition for the redress of grievances; and prosecute treason or high crimes against the state. If unlimited privilege be necessary to the performance of these duties, we have reason to conclude, that, for many centuries after the institution of the House of Commons, they were never performed. I am not bound to prove a negative; but I appeal to the English history, when I affirm, that, with the exceptions already stated, which yet I might safely relinquish, there is no precedent, from the year 1265, to the

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death of Queen Elizabeth, of the House of Commons having imprisoned any man (not a member of their House) for contempt or breach of privilege. In the most flagrant cases, and when their acknowledged privileges were most grossly violated, the *poor Commons*, as they then styled themselves, never took the power of punishment in their own hands. They either sought redress, by petition to the King, or, what is more remarkable, applied for justice to the House of Lords; and, when satisfaction was denied them, or delayed, their only remedy was to refuse proceeding upon the King's business.—So little conception had our ancestors of the monstrous doctrines now maintained concerning privilege, that, in the reign of Elizabeth, even liberty of speech, the vital principle of a deliberate assembly, was restrained by the Queen's authority to a simple *aye* or *no;* and this restriction, though imposed upon three successive Parliaments*, was never once disputed by the House of Commons.

I know there are many precedents of arbitrary commitments for contempt; but, besides that they are of too modern a date to warrant a presumption that such a power was originally

* In the years 1593—1597—and 1601.

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vested in the House of Commons, *fact* alone does not constitute *right*. If it does, general warrants were lawful. An ordinance of the two Houses has a force equal to law: and the criminal jurisdiction assumed by the Commons in 1621, in the case of Edward Lloyd, is a good precedent to warrant the like proceedings against any man who shall unadvisedly mention the folly of a King, or the ambition of a Princess. The truth is, Sir, that the greatest and most exceptionable part of the privileges now contended for, were introduced and asserted by a House of Commons, which abolished both Monarchy and Peerage, and whose proceedings, although they ended in one glorious act of substantial justice, could no way be reconciled to the forms of the constitution. Their successors profited by the example, and confirmed their power by a moderate or popular use of it. Thus it grew, by degrees, from a notorious innovation at one period, to be tacitly admitted as the privilege of Parliament at another.

If, however, it could be proved, from considerations of necessity or convenience, that an unlimited power of commitment ought to be entrusted to the House of Commons, and that, *in fact*, they have exercised it without opposition,

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still, in contemplation of law, the presumption is strongly against them. It is a leading maxim of the laws of England (and, without it, all laws are nugatory) that there is no right without a remedy, nor any legal power without a legal course to carry it into effect. Let the power, now in question, be tried by this rule. The speaker issues his warrant of attachment. The party attached either resists force with force, or appeals to a magistrate, who declares the warrant illegal, and discharges the prisoner. Does the law provide no legal means for enforcing a legal warrant? Is there no regular proceeding pointed out in our law books, to assert and vindicate the authority of so high a court as the House of Commons? The question is answered directly by the fact; their unlawful commands are resisted, and they have no remedy. The imprisonment of their own members is revenge indeed; but it is no assertion of the privilege they contend for*. Their whole proceeding stops; and there they stand, ashamed to retreat, and unable to advance. Sir, these ignorant men

* Upon their own principles, they should have committed Mr. Wilkes, who had been guilty of a greater offence than even the Lord Mayor or Alderman Oliver. But, after repeatedly ordering him to attend, they at last adjourned beyond the day appointed for his attendance, and, by this mean, pitiful evasion, gave up the point.

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should be informed, that the execution of the laws of England is not left in this uncertain, defenceless condition. If the process of the courts of Westminster-hall be resisted, they have a direct course to enforce submission. The Court of King's Bench commands the sheriff to raise the *posse comitatus;* the Courts of Chancery and Exchequer issue a *writ of rebellion;* which must also be supported, if necessary, by the power of the country. To whom will our honest representatives direct their writ of rebellion?—The guards, I doubt not, are willing enough to be employed; but they know nothing of the doctrine of writs, and may think it necessary to wait for a letter from Lord Barrington.

It may now be objected to me, that my arguments prove too much; for that certainly there may be instances of contempt and insult to the House of Commons, which do not fall within my own exceptions, yet, in regard to the dignity of the House, ought not to pass unpunished. Be it so. The courts of criminal jurisdiction are open to prosecutions, which the Attorney-General may commence by information or indictment. A libel, tending to asperse or vilify the House of Commons, or any of their

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members, may be as severely punished in the Court of King's Bench, as a libel upon the King. Mr. De Grey thought so, when he drew up the information of my letter to his Majesty, or he had no meaning in charging it to be a scandalous libel upon the House of Commons. In *my* opinion, they would consult their real dignity much better, by appealing to the laws, when they are offended, than by violating the first principle of natural justice, which forbids us to be judges, when we are parties to the cause*.

I do not mean to pursue them through the remainder of their proceedings. In their first resolutions, it is possible they might have been deceived by ill-considered precedents. For the rest, there is no colour of palliation or excuse. They have advised the King to resume

* "If it be demanded, in case a subject should be committed by either House for a matter manifestly out of their jurisdiction, What remedy can he have? I answer, that it cannot well be imagined that the law, which favours nothing more than the liberty of the subject, should give us a remedy against commitments by the King himself, appearing to be illegal, and yet give us no manner of redress against a commitment by our fellow-subjects, equally appearing to be unwarranted. But, as this is a case which, I am persuaded, will never happen, it seems needless overnicely to examine it." *Hawkins*, ii. 110.

N. B. He was a good lawyer, but no prophet.

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a power of dispensing with the laws by royal proclamation*; and Kings, we see, are ready enough to follow such advice. By mere violence, and without the shadow of right, they have expunged the record of a judicial proceeding†. Nothing remained but to attribute to their own vote a power of stopping the whole distribution of criminal and civil justice.

The public virtues of the Chief Magistrate have long since ceased to be in question. But it is said, that he has private good qualities; and I myself have been ready to acknowledge them. They are now brought to the test. If he loves his people, he will dissolve a Parliament, which they can never confide in or respect. If he has any regard for his own honour, he will disdain to be any longer connected with such abandoned prostitution. But, if it

* That their practice might be every way conformable to their principles, the House proceeded to advise the Crown to publish a proclamation, universally acknowledged to be illegal. Mr. Moreton publicly protested against it before it was issued; and Lord Mansfield, though not scrupulous to an extreme, speaks of it with horror. It is remarkable enough, that the very men who advised the proclamation, and who hear it arraigned every day, both within doors and without, are not daring enough to utter one word in its defence; nor have they ventured to take the least notice of Mr. Wilkes, for discharging the persons apprehended under it.

† Lord Chatham very properly called this the act of a mob, not of a senate.

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were conceivable, that a King of this country had lost all sense of personal honour, and all concern for the welfare of his subjects, I confess, Sir, I should be contented to renounce the forms of the constitution once more, if there were no other way to obtain substantial justice for the people.*

JUNIUS.

* When Mr. Wilkes was to be punished, they made no scruple about the privileges of Parliament; and although it was as well known as any matter of public record and uninterrupted custom could be, *That the members of either House are privileged, except in case of treason, felony, or breach of peace*, they declared, without hesitation, *That privilege of Parliament did not extend to the case of a seditious libel:* and undoubtedly they would have done the same if Mr. Wilkes had been prosecuted for any other misdemeanor whatsoever. The Ministry are, of a sudden, grown wonderfully careful of privileges, which their predecessors were as ready to invade. The known laws of the land, the rights of the subject, the sanctity of charters, and the reverence due to our magistrates, must all give way, without question or resistance, to a privilege of which no man knows either the origin or the extent. The House of Commons judge of their own privileges without appeal; they may take offence at the most innocent action, and imprison the person who offends them during their arbitrary will and pleasure. The party has no remedy; he cannot appeal from their jurisdiction; and if he questions the privilege which he is supposed to have violated, it becomes an aggravation of his offence. Surely this doctrine is not to be found in Magna Charta. If it be admitted without limitation, I affirm, that there is neither law nor liberty in this kingdom. We are the slaves of the House of Commons; and, through them, we are the slaves of the King and his Ministers. *Anonymous.*

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LETTER XLV.

TO THE

PRINTER OF THE PUBLIC ADVERTISER.

SIR, May 1, 1771.

THEY who object to detached parts of Junius's last letter, either do not mean him fairly, or have not considered the general scope and course of his argument. There are degrees in all the private vices; why not in public prostitution? The influence of the Crown naturally makes a septennial Parliament dependent. Does it follow, that every House of Commons will plunge at once into the *lowest depths* of prostitution? Junius supposes, that the present House of Commons, in going such enormous lengths, have been imprudent to themselves, as well as wicked to the public; that their example is not within the reach of emulation: and that, in the first session after the next election, some popular measures may probably be adopted. He does not expect that a dissolution of Parliament will destroy corruption, but that, at least, it will be a check and terror to

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their successors, who will have seen, that, in flagrant cases, their constituents can and will interpose with effect. After all, Sir, will you not endeavour to remove or alleviate the most dangerous symptoms, because you cannot eradicate the disease? Will you not punish treason or parricide, because the sight of a gibbet does not prevent highway robberies? When the main argument of Junius is admitted to be unanswerable, I think it would become the minor critic, who hunts for blemishes, to be a little more distrustful of his own sagacity. The other objection is hardly worth an answer. When Junius observes, that Kings are ready enough to follow *such* advice, he does not mean to insinuate, that, if the advice of Parliament were good, the King would be so ready to follow it.

PHILO JUNIUS.

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LETTER XLVI.

ADDRESSED TO THE

PRINTER OF THE PUBLIC ADVERTISER.

SIR, May 22, 1771.

VERY early in the debate upon the decision of the Middlesex election, it was well observed, by Junius, that the House of Commons had not only exceeded their boasted precedent of the expulsion, and subsequent incapacitation, of Mr. Walpole, but that they had not even adhered to it strictly, as far as it went. After convicting Mr. Dyson of giving a false quotation from the journals, and having explained the purpose which that contemptible fraud was intended to answer, he proceeds to state the vote itself by which Mr. Walpole's supposed incapacity was declared, viz. "Resolved, That Robert Wal-"pole, Esq. having been this Session of Parlia-"ment committed a Prisoner to the Tower, and "expelled this House, for a high Breach of "Trust in the Execution of his Office, and no-"torious Corruption when Secretary at War, "was and is incapable of being elected a Mem-"ber to serve in this present Parliament." And

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then observes, that, from the terms of the vote, we have no right to annex the incapacitation to the *expulsion* only; for that, as the proposition stands, it must arise equally from the expulsion and the commitment to the Tower. I believe, Sir, no man, who knows any thing of dialectics, or who understands English, will dispute the truth and fairness of this construction. But Junius has a great authority to support him; which, to speak with the Duke of Grafton, I accidentally met with this morning in the course of my reading. It contains an admonition, which cannot be repeated too often. Lord Sommers, in his excellent Tract upon the Rights of the People, after reciting the votes of the convention of the 28th of January, 1689, viz. "That "King James II. having endeavoured to subvert "the Constitution of this Kingdom, by breaking "the original Contract between King and Peo- "ple; and by the advice of Jesuits, and other "wicked Persons, having violated the funda- "mental Laws, and having withdrawn himself "out of this Kingdom, hath abdicated the Go- "vernment," &c. makes this observation upon it: "The word *abdicated* relates to *all* the "clauses aforegoing, as well as to his deserting "the kingdom, or else they would have been "wholly in vain." And, that there might be no

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pretence for confining the *abdication* merely to the *withdrawing*, Lord Sommers farther observes, *That King James, by refusing to govern us according to that Law by which he held the Crown, did implicitly renounce his Title to it.*

If Junius's construction of the vote against Mr. Walpole be now admitted, and, indeed, I cannot comprehend how it can honestly be disputed, the advocates of the House of Commons must either give up their precedent entirely, or be reduced to the necessity of maintaining one of the grossest absurdities imaginable, viz. "That a commitment to the Tower is a consti-"tuent part of, and contributes half at least to, "the incapacitation of the person who suffers "it."

I need not make you any excuse for endeavouring to keep alive the attention of the public, to the decision of the Middlesex election. The more I consider it, the more I am convinced, that, as a *fact*, it is, indeed, highly injurious to the rights of the people; but that, as a *precedent*, it is one of the most dangerous that ever was established against those who are to come after us. Yet I am so far a moderate man, that I verily believe the majority of the House of

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Commons, when they passed this dangerous vote, neither understood the question, or knew the consequence of what they were doing. Their motives were rather despicable, than criminal in the extreme. One effect they certainly did not foresee. They are now reduced to such a situation, that, if a Member of the present House of Commons were to conduct himself ever so improperly, and, in reality, deserve to be sent back to his constituents with a mark of disgrace, they would not dare to expel him; because they know that the people, in order to try again the great question of right, or to thwart an odious House of Commons, would probably overlook his immediate unworthiness, and return the same person to Parliament. But, in time, the precedent will gain strength. A future House of Commons will have no such apprehensions, consequently will not scruple to follow a precedent which they did not establish. The miser himself seldom lives to enjoy the fruit of his extortion; but his heir succeeds to him of course, and takes possession without censure. No man expects him to make restitution, and, no matter for his title, he lives quietly upon the estate.

PHILO JUNIUS.

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LETTER XLVII.

TO THE

PRINTER OF THE PUBLIC ADVERTISER.

SIR, May 25, 1771.

I CONFESS my partiality to Junius, and feel a considerable pleasure in being able to communicate any thing to the public in support of his opinions. The doctrine laid down in his last letter, concerning the power of the House of Commons to commit for contempt, is not so new as it appeared to many people; who, dazzled with the name of *privilege*, had never suffered themselves to examine the question fairly. In the course of my reading this morning, I met with the following passage in the Journals of the House of Commons, (Vol. i. p. 603.) Upon occasion of a jurisdiction unlawfully assumed by the House in the year 1621, Mr. Attorney-General Noye gave his opinion as follows: "No doubt but, in some cases, this House may "give judgment; in matters of returns, and "concerning members of our House, or falling "out in our view in Parliament; but, for foreign "matters, knoweth not how we can judge it;

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"knoweth not that we have been used to give "judgment in any case, but those before-men- "tioned."

Sir Edward Coke, upon the same subject, says, (page 604,) "No question but this is a House "of record, and that it hath power of judica- "ture in some cases; have power to judge of "returns and members of our House. One, no "member, offending out of the parliament, "*when he came hither, and justified it*, was cen- "sured for it."

Now, Sir, if you will compare the opinion of these great sages of the law with Junius's doctrine, you will find they tally exactly. He allows the power of the House to commit their own members, which, however, they may grossly abuse; he allows their power in cases where they are acting as a court of judicature, viz. elections, returns, &c. and he allows it in such contempts as immediately interrupts their proceedings; or, as Mr. Noye expresses it, *falling out in their view in Parliament.*

They who would carry the privileges of Parliament farther than Junius, either do not mean well to the public, or know not what they are

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doing. The government of England is a government of law. We betray ourselves, we contradict the spirit of our laws, and we shake the whole system of English jurispradence, whenever we entrust a discretionary power over the life, liberty, or fortune of the subject, to any man, or set of men, whatsoever, upon a presumption that it will not be abused.

PHILO JUNIUS.

LETTER XLVIII.

TO THE

PRINTER OF THE PUBLIC ADVERTISER.

SIR, May 28, 1771.

ANY man who takes the trouble of perusing the journals of the House of Commons, will soon be convinced, that very little, if any regard at all, ought to be paid to the resolutions of one branch of the legislature, declaratory of the law of the land, or even of what they call the law of Parliament. It will appear

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that these resolutions have no one of the properties by which, in this country particularly, law is distinguished from mere will and pleasure; but that, on the contrary, they bear every mark of a power arbitrarily assumed, and capriciously applied: that they are usually made in times of contest, and to serve some unworthy purpose of passion or party; that the law is seldom declared until after the fact by which it is supposed to be violated; that legislation and jurisdiction are united in the same persons, and exercised at the same moment; and that a court from which there is no appeal, assumes an *original* jurisdiction in a criminal case. In short, Sir, to collect a thousand absurdities into one mass, "we have "a law which cannot be known, because it is "*ex post facto:* the party is both legislator and "judge, and the jurisdiction is without appeal." Well might the judges say, "*The law of Parliament is above us.*"

You will not wonder, Sir, that, with these qualifications, the declaratory resolutions of the House of Commons should appear to be in perpetual contradiction, not only to common sense, and to the laws we are acquainted with, (and which alone we can obey,) but even to one another. I was led to trouble you with these ob-

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servations by a passage, which, to speak in Interstring, *I met with this morning in the course of my reading*, and upon which I mean to put a question to the advocates for privilege. On the 8th of March, 1704, (*vide* Journals, vol. XIV. p. 566,) the House thought proper to come to the following resolutions.—"That no Commoner of England, committed by the House "of Commons for breach of privilege, or contempt of that House, ought to be, by any "writ of *Habeas Corpus*, made to appear in any "other place, or before any other judicature, "during that session of parliament wherein such "person was so committed."

2. "That the Serjeant at Arms, attending this "House, do make no return of, or yield any "obedience to, the said writs of *Habeas Corpus*; "and for such his refusal, that he have the protection of the House of Commons.*"

* If there be, in reality, any such law in England as the *Law of Parliament*, which (under the exception stated in my letter on privilege) I confess, after long deliberation, I very much doubt, it certainly is not constituted by, nor can it be collected from, the resolutions of either House, whether *enacting* or *declaratory*. I desire the reader will compare the above resolutions of the year 1704 with the following of the 3d of April, 1628.—"*Resolved*, That the writ of *Habeas Corpus* cannot be denied, but ought to be granted to *every* "man that is committed or detained in prison, or otherwise "restrained by the command of the King, the privy council, "or *any other*, he praying the same."

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Welbore Ellis, what say you? Is this the law of Parliament, or is it not? I am a plain man, Sir, and cannot follow you through the phlegmatic forms of an oration. Speak out, Grildrig; say yes or no. If you say yes, I shall then inquire by what authority Mr. De Grey, the honest Lord Mansfield, and the Barons of the Exchequer, dared to grant a writ of *Habeas Corpus* for bringing the bodies of the Lord Mayor and Mr. Oliver before them; and why the Lieutenant of the Tower made any return to a writ, which the House of Commons had, in a similar instance, declared to be unlawful. If you say no, take care you do not at once give up the cause in support of which you have so long and so laboriously tortured your understanding. Take care you do not confess that there is no test by which we can distinguish, no evidence by which we can determine, what is, and what is not, the law of Parliament. The resolutions I have quoted, stand upon your journals, uncontroverted and unrepealed: they contain a declaration of the law of Parliament, by a court competent to the question, and whose decision, as you and Lord Mansfield say, must be law, because there is no appeal from it: and they were made not hastily, but after long deliberation upon a constitutional question. What farther sanction or

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solemnity will you annex to any resolution of the present House of Commons, beyond what appears upon the face of those two resolutions, the legality of which you now deny? If you say that Parliaments are not infallible, and that Queen Anne, in consequence of the violent proceedings of that House of Commons, was obliged to prorogue and dissolve them, I shall agree with you very heartily, and think that the precedent ought to be followed immediately. But you, Mr. Ellis, who hold this language, are inconsistent with your own principles. You have hitherto maintained, that the House of Commons are the sole judges of their own privileges, and that their declaration does *ipso facto* constitute the law of Parliament; yet now you confess that Parliaments are fallible, and that their resolutions may be illegal: consequently, that their resolutions do *not* constitute the law of Parliament. When the King was urged to dissolve the present parliament, you advised him to tell his subjects, that *he was careful not to assume any of those powers which the constitution had placed in other hands*, &c. Yet Queen Anne, it seems, was justified in exerting her prerogative to stop a House of Commons, whose proceedings, compared with those of the assembly of

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which you are a most worthy Member, were the perfection of justice and reason.

In what a labyrinth of nonsense does a man involve himself who labours to maintain falsehood by argument! How much better would it become the dignity of the House of Commons, to speak plainly to the people, and tell us, at once, *that their will must be obeyed; not because it is lawful and reasonable, but because it is their will!* Their constituents would have a better opinion of their candour, and, I promise you, not a worse opinion of their integrity.

PHILO JUNIUS.

LETTER XLIX.

TO HIS GRACE THE DUKE OF GRAFTON.

MY LORD, June 22, 1771.

THE profound respect I bear to the gracious Prince who governs this country, with no less honour to himself than satisfaction

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to his subjects, and who restores you to your rank under his standard, will save you from a multitude of reproaches. The attention I should have paid to your failings, is involuntarily attached to the hand that rewards them; and though I am not so partial to the Royal judgment as to affirm, that the favour of a king can remove mountains of infamy, it serves to lessen, at least, (for undoubtedly it divides,) the burden. While I remember how much is due to his sacred character, I cannot, with any decent appearance of propriety, call you the meanest and basest fellow in the kingdom. I protest, my Lord, I do not think you so. You will have a dangerous rival in that kind of fame to which you have hitherto so happily directed your ambition, as long as there is one man living who thinks you worthy of his confidence, and fit to be trusted with any share in his government. I confess you have great intrinsic merit; but take care you do not value it too highly. Consider how much of it would have been lost to the world, if the King had not graciously affixed his stamp, and given it currency among his subjects. If it be true that a virtuous man, struggling with adversity, be a scene worthy of the gods, the glorious contention between you and the best of Princes, deserves a circle equally attentive and

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respectable: I think I already see other gods rising from the earth to behold it.

But this language is too mild for the occasion. The King is determined that our abilities shall not be lost to society. The perpetration and description of new crimes will find employment for us both. My Lord, if the persons who have been loudest in their professions of patriotism, had done their duty to the public with the same zeal and perseverance that I did, I will not assert that government would have recovered its dignity, but at least our gracious sovereign must have spared his subjects this last insult*: which, if there be any feeling left among us, they will resent more than ever the real injuries they received from every measure of your Grace's administration. In vain would he have looked round him for another character so consummate as yours. Lord Mansfield shrinks from his principles: his ideas of government, perhaps, go farther than your own; but his heart disgraces the theory of his understanding. Charles Fox is yet in blossom; and as for Mr. Wedderburne, there is something about him which even treachery cannot trust. For the present, therefore, the best of Princes must have contented himself

* The Duke was lately appointed Lord Privy Seal.

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with Lord Sandwich. You would long since have received your final dismission and reward, and I, my Lord, who do not esteem you the more for the high office you possess, would willingly have followed you to your retirement. There is surely something singularly benevolent in the character of our Sovereign. From the moment he ascended the throne, there is no crime of which human nature is capable (and I call upon the Recorder to witness it) that has not appeared venal in his sight. With any other Prince, the shameful desertion of him in the midst of that distress which you alone had created, in the very crisis of danger, when he fancied he saw the throne surrounded by men of virtue and abilities, would have outweighed the memory of your former services. But his Majesty is full of justice, and understands the doctrine of compensations. He remembers, with gratitude, how soon you had accommodated your morals to the necessity of his service; how cheerfully you had abandoned the engagements of private friendship, and renounced the most solemn professions to the public. The sacrifice of Lord Chatham was not lost upon him. Even the cowardice and perfidy of deserting him may have done you no disservice in his esteem. The instance was painful, but the principle might please.

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You did not neglect the magistrate while you flattered the man. The expulsion of Mr. Wilkes, predetermined in the cabinet; the power of depriving the subject of his birthright, attributed to a resolution of one branch of the legislature; the constitution impudently invaded by the House of Commons; the right of defending it treacherously renounced by the House of Lords; these are the strokes, my Lord, which, in the present reign, recommend to office and constitute a Minister. They would have determined your Sovereign's judgment, if they had made no impression upon his heart. We need not look for any other species of merit to account for his taking the earliest opportunity to recal you to his councils. But you have other merit in abundance. Mr. Hine, the Duke of Portland, and Mr. Yorke:—Breach of trust, robbery, and murder. You would think it a compliment to your gallantry, if I added rape to the catalogue; but the style of your amours secures you from resistance. I know how well these several charges have been defended. In the first instance, the breach of trust is supposed to have been its own reward. Mr. Bradshaw affirms, upon his honour, (and so may the gift of smiling never depart from him!) that you reserved no part of Mr. Hine's purchase-money for your

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own use, but that every shilling of it was scrupulously paid to Governor Burgoyne. Make haste, my Lord; another patent, applied in time, may keep the *Oaks** in the family. If not, Birnham-Wood, I fear, must come to the *Macaroni*.

The Duke of Portland was in life your earliest friend. In defence of his property, he had nothing to plead but equity against Sir James Lowther, and prescription against the Crown. You felt for your friend; *but the law must take its course*. Posterity will scarce believe that Lord Bute's son-in-law had barely interest enough at the treasury to get his grant completed before the general election†.

Enough has been said of that detestable transaction which ended in the death of Mr. Yorke. I cannot speak of it without horror and compassion. To excuse yourself, you publicly impeach your accomplice; and to *his* mind, perhaps, the accusation may be flattery. But in

* A superb villa of Col. Burgoyne, about this time advertised for sale.

† It will appear, by a subsequent letter, that the Duke's precipitation proved fatal to the grant. It looks like the hurry and confusion of a young highwayman, who takes a few shillings, but leaves the purse and watch behind him.—And yet the Duke was an old offender.

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murder you are both principals. It was once a question of emulation; and, if the event had not disappointed the immediate schemes of the closet, it might still have been a hopeful subject of jest and merriment between you.

This letter, my Lord, is only a preface to my future correspondence. The remainder of the summer shall be dedicated to your amusement. I mean now and then to relieve the severity of your morning studies, and to prepare you for the business of the day. Without pretending to more than Mr. Bradshaw's sincerity, you may rely upon my attachment as long as you are in office.

Will your Grace forgive me, if I venture to express some anxiety for a man whom I know you do not love? My Lord Weymouth has cowardice to plead, and a desertion of a later date than your own. You know the privy-seal was intended for him; and if you consider the dignity of the post he deserted, you will hardly think it decent to quarter him on Mr. Rigby. Yet he must have bread, my Lord; or, rather, he must have wine. If you deny him the cup, there will be no keeping him within the pale of the Ministry.

JUNIUS.

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LETTER L.

TO HIS GRACE THE DUKE OF GRAFTON.

MY LORD, July 9, 1771.

THE influence of your Grace's fortune still seems to preside over the treasury. The genius of Mr. Bradshaw inspires Mr. Robinson*. How remarkable it is (and I speak of it not as a matter of reproach, but as something peculiar to your character) that you have never yet formed a friendship, which has not been fatal to the object of it; nor adopted a cause, to which, one way or other, you have not done mischief! Your attachment is infamy while it lasts; and, whichever way it turns, leaves ruin and disgrace behind it. The deluded girl who yields to such a profligate, even while he is constant, forfeits her reputation as well as her innocence, and finds herself abandoned at last to misery and shame. Thus it happened with the best of Princes. Poor Dingley, too! I protest I hardly know which of them we ought

*By an intercepted letter from the Secretary of the Treasury, it appeared, *that the friends of government were to be very active* in supporting the ministerial nomination of sheriffs.

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most to lament; the unhappy man who sinks under the sense of his dishonour, or him who survives it. Characters so finished are placed beyond the reach of panegyric. Death has fixed his zeal upon Dingley; and you, my Lord, have set your mark upon the other.

The only letter I ever addressed to the King was so unkindly received, that I believe I shall never presume to trouble his Majesty in that way again. But my zeal for his service is superior to neglect; and, like Mr. Wilkes's patriotism, thrives by persecution. Yet his Majesty is much addicted to useful reading; and, if I am not ill informed, has honoured the *Public Advertiser* with particular attention. I have endeavoured, therefore, and not without success, (as, perhaps, you may remember,) to furnish it with such interesting and edifying intelligence, as probably would not reach him through any other channel. The services you have done the nation, your integrity in office, and signal fidelity to your approved good Master, have been faithfully recorded. Nor have his own virtues been entirely neglected. These letters, my Lord, are read in other countries, and in other languages; and I think I may affirm, without vanity, that the gracious character of the best of Princes is, by

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Lord Bute?

Published by Vernor & Hood 31 Poultry April 1st 1806.

this time, not only perfectly known to his subjects, but tolerably well understood by the rest of Europe. In this respect alone I have the advantage of Mr. Whitehead. His plan, I think, is too narrow. He seems to manufacture his verses for the sole use of the hero who is supposed to be the subject of them, and, that his meaning may not be exported in foreign bottoms, sets all translation at defiance.

Your Grace's re-appointment to a seat in the cabinet was announced to the public by the ominous return of Lord Bute to this country. When that noxious planet approaches England, he never fails to bring plague and pestilence along with him. The King already feels the malignant effect of your influence over his councils. Your former administration made Mr. Wilkes an alderman of London, and representative of Middlesex. Your next appearance in office is marked with his election to the shrievalty. In whatever measure you are concerned, you are not only disappointed of success, but always contrive to make the government of the best of Princes contemptible in his own eyes, and ridiculous to the whole world. Making all due allowance for the effect of the Minister's declared interposition, Mr. Robinson's activity, and

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Mr. Horne's new zeal in support of administration, we still want the genius of the Duke of Grafton to account for committing the whole interest of government in the city to the conduct of Mr. Harley. I will not bear hard upon your faithful friend and emissary, Mr. Touchet; for I know the difficulties of his situation, and that a few lottery tickets are of use to his economy. There is a proverb concerning persons in the predicament of this gentleman, which, however, cannot be strictly applied to him: *They commence dupes, and finish knaves.* Now, Mr. Touchet's character is uniform. I am convinced that his sentiments never depended upon his circumstances; and that, in the most prosperous state of his fortune, he was always the very man he is at present. But was there no other person of rank and consequence in the city, whom government could confide in, but a notorious Jacobite? Did you imagine that the whole body of the dissenters, that the whole Whig interest of London, would attend at the levee, and submit to the directions of a notorious Jacobite? Was there no Whig magistrate in the city, to whom the servants of George the Third could entrust the management of a business so very interesting to their Master as the election of sheriffs? Is there no room at St. James's but for Scotchmen

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and Jacobites? My Lord, I do not mean to question the sincerity of Mr. Harley's attachment to his Majesty's government. Since the commencement of the present reign, I have seen still greater contradictions reconciled. The principles of these worthy Jacobites are not so absurd as they have been represented. Their ideas of divine right are not so much annexed to the person or family, as to the political character of the Sovereign. Had there ever been an honest man among the Stuarts, his Majesty's present friends would have been Whigs upon principle. But the conversion of the best of Princes has removed their scruples. They have forgiven him the sins of his Hanoverian ancestors, and acknowledged the hand of Providence in the descent of the Crown upon the head of a true Stuart. In you, my Lord, they also behold, with a kind of predilection which borders upon loyalty, the natural representative of that illustrious family. The mode of your descent from Charles the Second is only a bar to your pretensions to the Crown, and no way interrupts the regularity of your succession to all the virtues of the Stuarts.

The unfortunate success of the Reverend Mr. Horne's endeavours in support of the minis-

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terial nomination of sheriffs, will, I fear, obstruct his preferment. Permit me to recommend him to your Grace's protection. You will find him copiously gifted with those qualities of the heart which usually direct you in the choice of your friendships. He too was Mr. Wilkes's friend, and as incapable as you are of the liberal resentment of a gentleman. No, my Lord; it was the solitary, vindictive malice of a monk, brooding over the infirmities of his friend, until he thought they quickened into public life, and feasting with a rancorous rapture upon the sordid catalogue of his distresses. Now let him go back to his cloister. The church is a proper retreat for him. In his principles he is already a bishop.

The mention of this man has moved me from my natural moderation. Let me return to your Grace. You are the pillow upon which I am determined to rest all my resentments. What idea can the best of Sovereigns form to himself of his own government? In what repute can he conceive that he stands with the people, when he sees, beyond the possibility of a doubt, that, whatever be the office, the suspicion of his favour is fatal to the candidate; and that, when the party he wishes well to has the fairest prospect of success, if his royal inclination should unfortu-

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nately be discovered, it drops like an acid, and turns the election?

This event, among others, may, perhaps, contribute to open his Majesty's eyes to his real honour and interest. In spite of all your Grace's ingenuity, he may, at last, perceive the inconvenience of selecting, with such a curious felicity, every villain in the nation to fill the various departments of his government. Yet I should be sorry to confine him in the choice either of his footmen or his friends.

JUNIUS.

LETTER LI.

FROM THE

REVEREND MR. HORNE TO JUNIUS.

SIR, July 13, 1771.

FARCE, *Comedy*, and *Tragedy*.—*Wilkes*, *Foote*, and *Junius*—united at the same time against one poor parson, are fearful odds.

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The two former are only labouring in their vocation, and may equally plead, in excuse, that their aim is a livelihood. I admit the plea for the *second:* his is an honest calling, and my clothes were lawful game; but I cannot so readily approve Mr. Wilkes, or commend him for making patriotism a trade, and a fraudulent trade. But what shall I say to Junius? the grave, the solemn, the didactic! Ridicule, indeed, has been ridiculously called the test of truth; but surely, to confess that you lose your natural moderation when mention is made of the man, does not promise much truth or justice when you speak of him yourself.

You charge me with "a new zeal in support "of administration," and with "endeavours in "support of the ministerial nomination of she-"riffs." The reputation which your talents have deservedly gained to the signature of Junius, draws from me a reply, which I disdained to give to the anonymous lies of Mr. Wilkes. You make frequent use of the word *gentleman*. I only call myself a *man*, and desire no other distinction. If you are either, you are bound to make good your charges, or to confess that you have done me a hasty injustice upon no authority.

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I put the matter fairly to issue. I say that, so far from any "new zeal in support of admi-"nistration," I am possessed with the utmost abhorrence of their measures; and that I have ever shewn myself, and am still ready, in any rational manner, to lay down all I have—my life, in opposition to those measures. I say, that I have not, and never have had, any communication or connexion of any kind, directly or indirectly, with any courtier or ministerial man, or any of their adherents; that I never have received, or solicited, or expected, or desired, or do now hope for, any reward of any sort, from any party or set of men in administration, or opposition. I say, that I never used any "en-"deavours in support of the ministerial nomina-"tion of sheriffs;" that I did not solicit any one liveryman for his vote for any one of the candidates, nor employ any other person to solicit; and that I did not write one single line or word in favour of Mess. Plumbe and Kirkman, whom I understand to have been supported by the Ministry.

You are bound to refute what I here advance, or to lose your credit for veracity. You must produce facts; surmise and general abuse, in however elegant language, ought not to pass for

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proofs. You have every advantage, and I have every disadvantage: you are unknown; I give my name. All parties, both in and out of administration, have their reasons (which I shall relate hereafter) for uniting in their wishes against me: and the popular prejudice is as strongly in your favour as it is violent against the Parson.

Singular as my present situation is, it is neither painful, nor was it unforeseen. He is not fit for public business, who does not, even at his entrance, prepare his mind for such an event. Health, fortune, tranquillity, and private connexions, I have sacrificed upon the altar of the public; and the only return I received, because I will not concur to dupe and mislead a senseless multitude, is barely, that they have not yet torn me in pieces. That this has been the only return is my pride, and a source of more real satisfaction than honours or prosperity. I can practise, before I am old, the lessons I learned in my youth; nor shall I forget the words of my ancient Monitor.

" 'Tis the last key-stone
" That makes the arch: the rest that there were put,
" Are nothing till that comes to bind and shut;

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" Then stands it a triumphal mark! Then men
" Observe the strength, the height, the why and when
" It was erected; and still, walking under,
" Meet some new matter to look up and wonder!"

I am, Sir, your humble Servant,
JOHN HORNE.

LETTER LII.

TO THE REVEREND MR. HORNE.

SIR, July 24, 1771.

I CANNOT descend to an altercation with you in the newspapers: but since I have attacked your character, and you complain of injustice, I think you have some right to an explanation. You defy me to prove, that you ever solicited a vote, or wrote a word in support of the ministerial aldermen. Sir, I did never suspect you of such gross folly. It would have been impossible for Mr. Horne to have solicited votes, and very difficult to have written in the newspapers in defence of that cause, without being detected, and brought to shame. Neither

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do I pretend to any intelligence concerning you, or to know more of your conduct than you yourself have thought proper to communicate to the public. It is from your own letters, I conclude, that you have sold yourself to the Ministry: or, if that charge be too severe, and supposing it possible to be deceived by appearances so very strongly against you, what are your friends to say in your defence? Must they not confess, that, to gratify your personal hatred of Mr. Wilkes, you sacrificed, as far as depended on your interest and abilities, the cause of the country? I can make allowance for the violence of the passions; and if ever I should be convinced that you had no motive but to destroy Wilkes, I shall then be ready to do justice to your character, and to declare to the world, that I despise you somewhat less than I do at present. But, as a public man, I must for ever condemn you. You cannot but know, (nay, you dare not pretend to be ignorant) that the highest gratifications of which the most detestable ** in this nation is capable, would have been the defeat of Wilkes. I know that man much better than any of you. Nature intended him only for a good-humoured fool. A systematical education, with long practice, has made him a consummate hypocrite. Yet this man, to say no-

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thing of his worthy Ministers, you have most assiduously laboured to gratify. To exclude Wilkes, it was not necessary you should solicit votes for his opponents. We incline the balance as effectually by lessening the weight in one scale, as by increasing it in the other.

The mode of your attack upon Wilkes (though I am far from thinking meanly of your abilities) convinces me that you either want judgment extremely, or that you are blinded by your resentment. You ought to have foreseen that the charges you urged against Wilkes could never do him any mischief. After all, when we expected discoveries highly interesting to the community, what a pitiful detail did it end in!—some old cloathes,—a Welch poney—a French Footman—and a hamper of claret. Indeed, Mr. Horne, the public should and will forgive him his claret and his footman, and even the ambition of making his brother chamberlain of London, as long as he stands forth against a Ministry and Parliament who are doing every thing they can to enslave the country, and as long as he is a thorn in the King's side. You will not suspect me of setting up Wilkes for a perfect character. The question to the public is, where shall we find a man who, with purer

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principles, will go the lengths, and run the hazards, that he has done? The season calls for such a man, and he ought to be supported. What would have been the triumph of that odious hypocrite and his minions, if Wilkes had been defeated! It was not your fault, Reverend Sir, that he did not enjoy it completely. But now, I promise you, you have so little power to do mischief, that I much question whether the Ministry will adhere to the promises they have made you. It will be in vain to say that I am a partizan of Mr. Wilkes, or personally your enemy. You will convince no man, for you do not believe it yourself. Yet I confess I am a little offended at the low rate at which you seem to value my understanding. I beg, Mr. Horne, you will hereafter believe, that I measure the integrity of men by their conduct, not by their professions. Such tales may entertain Mr. Oliver, or your grandmother; but, trust me, they are thrown away upon Junius.

You say you are a *man*. Was it generous, was it manly, repeatedly to introduce into a newspaper, the name of a young lady with whom you must heretofore have lived on terms of politeness and good humour? But I have done with you. In my opinion your credit is irrecoverably ruined. Mr. Townshend, I think, is nearly in

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the same predicament. Poor Oliver has been shamefully duped by you. You have made him sacrifice all the honour he got by his imprisonment. As for Mr. Sawbridge, whose character I really respect, I am astonished he does not see through your duplicity. Never was so base a design so poorly conducted. This* letter, you see, is not intended for the public; but, if you think it will do you any service, you are at liberty to publish it.

JUNIUS.

* This letter was transmitted privately by the printer to Mr. Horne, at Junius's request. Mr. Horne returned it to the printer, with directions to publish it.

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LETTER LIII.

FROM THE

REVERENDMR. HORNE TO JUNIUS.

SIR, July 31, 1771.

YOU have disappointed me. When I told you that surmise and general abuse, in however elegant language, ought not to pass for proofs, I evidently hinted at the reply which I expected: but you have dropped your usual elegance, and seem willing to try what will be the effect of surmise and general abuse in very coarse language. Your answer to my last letter (which, I hope, was cool, and temperate, and modest) has convinced me, that my idea of a *man* is much superior to yours of a *gentleman*. Of your former letters, I have always said, *Materiem superabat opus*: I do not think so of the present: the principles are more detestable than the expressions are mean and illiberal. I am contented that all those who adopt the one should for ever load me with the other.

I appeal to the common sense of the public, to which I have ever directed myself: I believe

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John Horne Tooke Esqr.

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they have it; though I am sometimes half inclined to suspect that Mr. Wilkes has formed a truer judgment of mankind than I have. However, of this I am sure, that there is nothing else upon which to place a steady reliance. Trick, and low cunning, and addressing their prejudices and passions, may be the fittest means to carry a particular point; if they have not common sense, there is no prospect of gaining for them any real permanent good. The same passions which have been artfully used by an honest man for their advantage, may be more artfully employed by a dishonest man for their destruction. I desire them to apply their common sense to this letter of Junius, not for my sake, but their own; it concerns them most nearly; for the principles it contains lead to disgrace and ruin, and are inconsistent with every notion of civil society.

The charges which Junius has brought against me, are made ridiculous by his own inconsistency and self-contradiction. He charges me positively with "a new zeal in support of administration;" and with "endeavours in support of the ministerial nomination of sheriffs." And he assigns two inconsistent motives for my conduct: either that I have "*sold* myself to the Ministry;" or

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am instigated "by the solitary vindictive *malice* "of a monk:" either that I am influenced by a sordid desire of gain, or am hurried on by "per- "sonal hatred, and blinded by resentment." In his letter to the Duke of Grafton, he supposes me actuated by both: in his letter to me, he at first doubts which of the two, whether interest or revenge, is my motive. However, at last he determines for the former, and again positively asserts, "that the Ministry have made me pro- "mises:" yet he produces no instance of corruption, nor pretends to have any intelligence of a ministerial connexion. He mentions no cause of personal hatred to Mr. Wilkes, nor any reason for my resentment or revenge; nor has Mr. Wilkes himself ever hinted any, though repeatedly pressed. When Junius is called upon to justify his accusation, he answers, "He cannot "descend to an altercation with me in the news- "papers." Junius, who exists only in the newspapers, who acknowledges he "has attacked my "character" there, and thinks "I have some "right to an explanation;" yet this Junius, "cannot condescend to an altercation in the "newspapers!" And because he cannot descend to an altercation with me in the newspapers, he sends a letter of abuse, by the printer, which he finishes with telling me, "I am at liberty to

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"*publish* it." This, to be sure, is a most excellent method to avoid an altercation in the newspapers!

The proof of his positive charges are as extraordinary. "He does not pretend to any intel-"ligence concerning me, or to know more of my "conduct than I myself have thought proper to "communicate to the public." He does not suspect me of such gross folly as to have solicited votes, or to have written anonymously in the newspapers; because it is impossible to do either without being detected, and brought to shame. Junius says this! who yet imagines that he has himself written two years under that signature (and more under *others*) without being detected! his warmest admirers will not hereafter add, *without being brought to shame.* But, though he did never suspect me of such gross folly as to run the hazard of being detected, and brought to shame, by anonymous writing, he insists that I have been guilty of a much grosser folly, of incurring the certainty of shame and detection, by writings signed with my name! But this is a small flight for the towering Junius: "He is far "from thinking meanly of my abilities," though "he is convinced that I want judgment extreme-"ly;" and can "really respect Mr. Sawbridge's

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"character," though he declares him * to be so poor a creature, as not to "see through the "basest design, conducted in the poorest man-"ner!" And this most base design is conducted in the poorest manner by a man, whom he does not suspect of gross folly, and of whose abilities he is far from thinking meanly!

Should we ask Junius to reconcile these contradictions, and explain this nonsense, the answer is ready: "He cannot descend to an altercation "in the newspapers." He feels no reluctance to attack the character of any man: the throne is not too high, nor the cottage too low: his mighty malice can grasp both extremes. He hints not his accusations as opinion, conjecture, or inference, but delivers them as positive assertions.

* I beg leave to introduce Mr. Horne to the character of the *Double Dealer*. I thought they had been better acquainted. "Another very wrong objection has been made by "some, who have not taken leisure to distinguish the charac-"ters. The hero of the play (meaning *Melefont*) is a gull, "and made a fool, and cheated. Is every man a gull and a "fool that is deceived? At that rate, I am afraid, the two "classes of men will be reduced to one, and the knaves "themselves be at a loss to justify their title. But if an open, "honest-hearted man, who has an entire confidence in one, "whom he takes to be his friend, and who (to confirm him in "his opinion) in all appearance, and upon several trials, has "been so; if this man be deceived by the treachery of the "other, must he of necessity commence fool immediately, "only because the other has proved a villain?" Yes, says Parson Horne. No, says Congreve: and he, I think, is allowed to have known something of human nature.

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Do the accused complain of injustice? He acknowledges they have some sort of right to an explanation: but if they ask for proofs and facts, he begs to be excused; and though he is no where else to be encountered, "he can-"not descend to an altercation in the news-"papers."

And this, perhaps, Junius may think "the "*liberal sentiment of a gentleman*;" This skulking assassination he may call courage. In all things, as in this, I hope we differ.

> "I thought that fortitude had been a mean
> "'Twixt fear and rashness; not a lust obscene,
> "Or appetite of offending; but a skill
> "And nice discernment between good and ill.
> "Her ends are honesty and public good;
> "And without these she is not understood."

Of two things, however, he has condescended to give proof. He very properly produces a *young lady* to prove that I am not a man; and a good *old woman*, my grandmother, to prove Mr. Oliver a fool. Poor old soul! she read her Bible far otherwise than Junius! She often found there, that the sins of the fathers had been visited on the children; and therefore was cautious that herself, and her immediate descendants, should leave no reproach on her pos-

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terity: and they left none. How little could she foresee this reverse of Junius, who visits my political sins upon my grandmother! I do not charge this to the score of malice in him; it proceeded entirely from his propensity to blunder; that whilst he was reproaching me for introducing, in the most harmless manner, the name of one female, he might himself, at the same instant, introduce two.

I am represented, alternately, as it suits Junius's purpose, under the opposite characters of a *gloomy monk*, and a man of *politeness* and *good-humour*. I am called "*a solitary monk*," in order to confirm the notion given of me in Mr. Wilkes's anonymous paragraphs, that I never laugh. And the terms of politeness and good-humour, on which I am said to have lived heretofore with the young lady, are intended to confirm other paragraphs of Mr. Wilkes, in which he is supposed to have offended me by *refusing his daughter*. Ridiculous! Yet I cannot deny but that Junius has proved me unmanly and ungenerous, as clearly as he has shown me corrupt and vindictive: and I will tell him more; I have paid the present Ministry as many visits and compliments as ever I paid to the young lady; and shall all my life treat

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them with the same politeness and good-humour.

But Junius "begs me to believe, that he "measures the integrity of men by their con-"duct, not by their professions." Sure this Junius must imagine his readers as void of understanding as he is of modesty! Where shall we find the standard of his integrity? By what are we to measure the conduct of this lurking assassin? And he says this to me, whose conduct, wherever I could personally appear, has been as direct, and open, and public, as my words. I have not, like him, concealed myself in my chamber, to shoot my arrows out of the window; nor contented myself to view the battle from afar; but publicly mixed in the engagement, and shared the danger. To whom have I, like him, refused my name, upon complaint of injury? What printer have I desired to conceal me? In the infinite variety of business in which I have been concerned, where it is not so easy to be faultless, which of my actions can he arraign? To what danger has any man been exposed, which I have not faced?—*Information*, *action*, *imprisonment*, or *death*? What labour have I refused? What expence have I declined? What pleasure have I not renounced? But

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Junius, to whom no conduct belongs, " measures " the integrity of men by their conduct, not by " their professions :" himself, all the while, being nothing but professions, and those too anonymous. The political ignorance, or wilful falsehood, of this declaimer is extreme. His own former letters justify both my conduct and those whom his last letter abuses: for the public measures which Junius has been all along defending, were ours whom he attacks; and the uniform opposer of those measures has been Mr. Wilkes, whose bad actions and intentions he endeavours to screen.

Let Junius now, if he pleases, change his abuse, and quitting his loose hold of interest and revenge, accuse me of vanity, and call this defence boasting. I own I have pride to see statues decreed, and the highest honours conferred, for measures and actions which all men have approved; whilst those who counselled and caused them are execrated and insulted. The darkness in which Junius thinks himself shrouded has not concealed him; nor the artifice of only *attacking under that signature* those he would pull down, whilst he *recommends by other ways* those he would have promoted, disguised from me whose partizan he is. When Lord Chatham can forgive the

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awkward situation in which, for the sake of the public, he was designedly placed by the thanks to him from the city; and when Wilkes's name ceases to be necessary to Lord Rockingham, to keep up a clamour against the persons of the Ministry, without obliging the different factions now in opposition, to bind themselves beforehand to some certain points, and to stipulate some precise advantages to the public; then, and not till then, may those whom he now abuses expect the approbation of Junius. The approbation of the public for our faithful attention to their interest, by endeavours for those stipulations which have made us as obnoxious to the factions in opposition as to those in administration, is not, perhaps, to be expected till some years hence; when the public will look back, and see how shamefully they have been deluded, and by what arts they were made to lose the golden opportunity of preventing what they will surely experience,—a change of Ministers, without a material change of measures, and without any security for a tottering constitution. But what cares Junius for the security of the constitution? He has now unfolded to us his diabolical principles. As a public man, he must ever condemn any measure which may tend accidentally to gratify the Sovereign; and Mr. Wilkes

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is to be supported and assisted in all his attempts (no matter how ridiculous and mischievous his projects) *as long as he continues to be a thorn in the King's side!* The cause of the country, it seems, in the opinion of Junius, is merely to vex the King; and any rascal is to be supported in any roguery, provided he can only thereby plant *a thorn in the King's side.* This is the very extremity of faction, and the last degree of political wickedness. Because Lord Chatham has been ill treated by the King, and treacherously betrayed by the Duke of Grafton, the latter is to be, "the pillow on which Junius will rest his "resentment;" and the public are to oppose the measures of government from mere motives of personal enmity to the Sovereign! These are the avowed principles of the man who, in the same letter, says, "If ever he should be convinced "that I had no motive but to destroy Wilkes, he "shall then be ready to do justice to my cha- "racter, and to declare to the world, that he "despises me somewhat less than he does at "present!" Had I ever acted from personal affection or enmity to Mr. Wilkes, I should justly be despised: but what does he deserve, whose avowed motive is personal enmity to the Sovereign? The contempt which I should otherwise feel for the absurdity and glaring inconsistency

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of Junius, is here swallowed up in my abhorrence of his principles. The *right divine* and *sacredness* of kings is to me a senseless jargon. It was thought a daring expression of Oliver Cromwell, in the time of Charles the First, that, if he found himself placed opposite to the king in battle, he would discharge his piece into his bosom as soon as into any other man's. I go farther: had I lived in those days, I would not have waited for chance to give me an opportunity of doing my duty; I would have sought him through the ranks, and, without the least personal enmity, have discharged my piece into his bosom rather than into any other man's. The King, whose actions justify rebellion to his government, deserves death from the hand of every subject. And should such a time arrive, I shall be as free to act as to say; but, till then, my attachment to the person and family of the Sovereign shall ever be found more zealous and sincere than that of his flatterers. I would offend the Sovereign with as much reluctance as the parent: but if the happiness and security of the whole family made it necessary, so far, and no farther, I would offend him without remorse.

But let us consider a little whither these principles of Junius would lead us. Should Mr.

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Wilkes once more commission Mr. Thomas Walpole to procure for him a pension of one thousand pounds upon the Irish establishment for thirty years, he must be supported in the demand by the public, because it would mortify the King!

Should he wish to see Lord Rockingham and his friends once more in administration, unclogged by any stipulations from the people, that he might again enjoy a pension of one thousand and forty pounds a year, viz. from the first Lord of the Treasury, 500; from the Lords of the Treasury, 60l. each; from the Lords of Trade, 40l. each, &c. the public must give up their attention to points of national benefit, and assist Mr. Wilkes in his attempt, because it would mortify the King!

Should he demand the government of Canada, or of Jamaica, or the embassy to Constantinople, and, in case of refusal, threaten to write them down, as he had before served another administration, in a year and a half, he must be supported in his pretensions, and upheld in his insolence, because it would mortify the King!

Junius may choose to suppose that these can-

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not happen! But, that they have happened, notwithstanding Mr. Wilkes's denial, I do aver. I maintain that Mr. Wilkes did commission Mr. Thomas Walpole to solicit for him a pension of one thousand pounds, on the Irish establishment, for thirty years; with which, and a pardon, he declared he would be satisfied: and that, notwithstanding his letter to Mr. Onslow, he did accept a clandestine, precarious, and eleemosynary pension from the Rockingham administration, which they paid in proportion to, and out of their salaries; and so entirely was it ministerial, that, as any of them went out of the Ministry, their names were scratched out of the list, and they contributed no longer. I say, he did solicit the governments, and the embassy, and threatened their refusal nearly in these words: "It cost me a year and a half to write down the "last administration; should I employ as much "time upon you, very few of you would be in "at the death." When these threats did not prevail, he came over to England to embarrass them by his presence: and when he found that Lord Rockingham was something firmer, and more manly, than he expected, and refused to be bullied into what he could not perform, Mr. Wilkes declared that he could not leave England without money; and the Duke of Portland

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and Lord Rockingham purchased his absence with one hundred pounds a-piece, with which he returned to Paris. And for the truth of what I here advance, I appeal to the Duke of Portland, to Lord Rockingham, to Lord John Cavendish, to Mr. Walpole, &c. I appeal to the hand-writing of Mr. Wilkes, which is still extant.

Should Mr. Wilkes afterwards (failing in this wholesale trade) choose to dole out his popularity by the pound, and expose the city offices to sale to his brother, his attorney, &c. Junius will tell us, it is only an ambition that he has to make them chamberlain, town-clerk, &c. and he must not be opposed in thus robbing the ancient citizens of their birthright, because any defeat of Mr. Wilkes would gratify the King!

Should he, after consuming the whole of his own fortune, and that of his wife, and incurring a debt of twenty thousand pounds, merely by his own private extravagance, without a single service or exertion all this time for the public, whilst his estate remained; should he, at length, being undone, commence patriot; have the good fortune to be illegally persecuted, and in consideration of that illegality, be espoused by a few

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gentlemen of the purest public principles; should his debts, though none of them were contracted for the public, and all his other incumbrances, be discharged; should he be offered 600l. or 1000l. a year to make him independent for the future; and should he, after all, instead of gratitude for these services, insolently forbid his benefactors to bestow their own money upon any other object but himself, and revile them for setting any bounds to their supplies; Junius (who, any more than Lord Chatham, never contributed one farthing to these enormous expences) will tell them, that if they think of converting the supplies of Mr. Wilkes's private extravagance to the support of public measures, they are as great fools as my grandmother; and that Mr. Wilkes ought to hold the strings of their purses, *as long as he continues to be a thorn in the King's side!*

Upon these principles I never have acted, and I never will act. In my opinion, it is less dishonourable to be the creature of a court, than the tool of a faction. I will not be either. I understand the two great leaders of opposition to be Lord Rockingham and Lord Chatham; under one of whose banners all the opposing members of both Houses, who desire to get

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places, enlist. I can place no confidence in either of them, or in any others, unless they will now engage, whilst they are *out*, to grant certain essential advantages for the security of the public when they shall be *in* administration. These points they refuse to stipulate, because they are fearful lest they should prevent any future overtures from the court. To force them to these stipulations has been the uniform endeavour of Mr. Sawbridge, Mr. Townshend, Mr. Oliver, &c. and *therefore* they are abused by Junius. I know no reason, but my zeal and industry in the same cause, that should entitle me to the honour of being ranked by his abuse with persons of their fortune and station. It is a duty I owe to the memory of the late Mr. Beckford, to say, that he had no other aim than this, when he provided that sumptuous entertainment at the Mansion House, for the Members of both Houses in opposition. At that time, he drew up the heads of an engagement, which he gave to me, with a request that I would couch it in terms so cautious and precise, as to leave no room for future quibble and evasion; but to oblige them either to fulfil the intent of the obligation, or to sign their own infamy, and leave it on record; and this engagement he

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was determined to propose to them at the Mansion House, that, either by their refusal they might forfeit the confidence of the public, or, by the engagement, lay a foundation for confidence.

When they were informed of the intention, Lord Rockingham and his friends flatly refused any engagement; and Mr. Beckford as flatly swore, they should then "eat none of his broth;" and he was determined to put off the entertainment; but Mr. Beckford was prevailed upon by ——— to indulge them in the ridiculous parade of a popular procession through the city, and to give them the foolish pleasure of an imaginary consequence, for the real benefit only of the cooks and purveyors.

It was the same motive which dictated the thanks of the City to Lord Chatham; which were expressed to be given for his declaration in favour of *short Parliaments*, in order thereby to fix Lord Chatham, at least, to that one constitutional remedy, without which all others can afford no security. The embarrassment, no doubt, was cruel. He had his choice, either to offend the Rockingham party, who declared formally against short Parliaments, and with

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the assistance of whose numbers in both Houses he must expect again to be Minister, or to give up the confidence of the public, from whom, finally, all real consequence must proceed. Lord Chatham chose the latter; and I will venture to say, that, by his answer to those thanks, he has given up the people without gaining the friendship or cordial assistance of the Rockingham faction, whose little politics are confined to the making of matches, and extending their family connexions; and who think they gain more by procuring one additional vote to their party in the House of Commons, than by adding their languid property, and feeble character, to the abilities of a Chatham, or the confidence of a public.

Whatever may be the event of the present wretched state of politics in this country, the principles of Junius will suit no form of government. They are not to be tolerated under any constitution. Personal enmity is a motive fit only for the devil. Whoever, or whatever, is Sovereign, demands the respect and support of the people. The union is formed for their happiness, which cannot be had without mutual respect; and he counsels maliciously who would persuade either to a wanton breach of it.

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When it is banished by either party, and when every method has been tried in vain to restore it, there is no remedy but a divorce; but even then he must have a hard and a wicked heart indeed, who punishes the greatest criminal merely for the sake of the punishment; and who does not let fall a tear for every drop of blood that is shed in a public struggle, however just the quarrel.

JOHN HORNE.

LETTER LIV.

TO THE

PRINTER OF THE PUBLIC ADVERTISER.

SIR, August 15, 1771.

I OUGHT to make an apology to the Duke of Grafton, for suffering any part of my attention to be diverted from his Grace to Mr. Horne. I am not justified by the similarity of their dispositions. Private vices, however detestable, have not dignity sufficient to attract the censure of the press, unless they are united with the power of doing some signal mischief to the

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community. Mr. Horne's situation does not correspond with his intentions. In my opinion (which I know will be attributed to my usual vanity and presumption) his letter to me does not deserve an answer. But I understand that the public are not satisfied with my silence; that an answer is expected from me; and that if I persist in refusing to plead, it will be taken for conviction. I should be inconsistent with the principles I profess, if I declined an appeal to the good sense of the people, or did not willingly submit myself to the judgment of my peers.

If any coarse expressions have escaped me, I am ready to agree that they are unfit for Junius to make use of; but I see no reason to admit that they have been improperly applied.

Mr. Horne, it seems, is unable to comprehend how an extreme want of conduct and discretion can consist with the abilities I have allowed him; nor can he conceive that a very honest man, with a very good understanding, may be deceived by a knave. His knowledge of human nature must be limited indeed. Had he never mixed with the world, one would think that even his books might have taught him better.—Did he hear Lord Mansfield, when he defended

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his doctrine concerning libels? Or when he stated the law in prosecutions for criminal conversation? Or when he delivered his reasons for calling the House of Lords together to receive a copy of his charge to the jury in Woodfall's trial? Had he been present upon any of these occasions, he would have seen how possible it is for a man of the first talents to confound himself in absurdities which would disgrace the lips of an idiot. Perhaps the example might have taught him not to value his own understanding so highly. Lord Lyttleton's integrity and judgment are unquestionable; yet he is known to admire that cunning Scotchman, and verily believes him an honest man. I speak to facts, with which all of us are conversant. I speak to men, and to their experience; and will not descend to answer the little sneering sophistries of a collegian. Distinguished talents are not necessarily connected with discretion. If there be any thing remarkable in the character of Mr. Horne, it is, that extreme want of judgment should be united with his moderate capacity.—Yet I have not forgotten the acknowledgment I made him; he owes it to my bounty: and though his letter has lowered him in my opinion, I scorn to retract the charitable donation.

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I said it would be very difficult for Mr. Horne to write directly in defence of a ministerial measure, and not be detected, and even that difficulty I confined to his particular situation. He changes the terms of the proposition, and supposes me to assert, that it would be impossible for any man to write for the newspapers, and not be discovered.

He repeatedly affirms, or intimates at least, that he knows the author of these letters. With what colour of truth, then, can he pretend, *That I am no where to be encountered but in a newspaper?* I shall leave him to his suspicions. It is not necessary that I should confide in the honour or discretion of a man, who already seems to hate me with as much rancour as if I had formerly been his friend. But he asserts, that he has traced me through a variety of signatures. To make the discovery of any importance to his purpose, he should have proved, either that the fictitious character of Junius has not been consistently supported, or that the author has maintained different principles under different signatures. I cannot recal to my memory the numberless trifles I have written; but I rely upon the consciousness of my own integrity, and defy him to fix any colourable charge of inconsistency upon me.

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I am not bound to assign the secret motives of his apparent hatred of Mr. Wilkes: nor does it follow that I may not judge fairly of his conduct, though it were true *that I had no conduct of my own.* Mr. Horne enlarges with rapture upon the importance of his services; the dreadful battles which he might have been engaged in, and the dangers he has escaped. In support of the formidable description, he quotes verses without mercy. The gentleman deals in fiction, and naturally appeals to the evidence of the poets. Taking him at his word, he cannot but admit the superiority of Mr. Wilkes in this line of service. On one side, we see nothing but imaginary distresses; on the other, we see real prosecutions; real penalties; real imprisonment; life repeatedly hazarded; and, at one moment, almost the certainty of death. Thanks are undoubtedly due to every man who does his duty in the engagement, but it is the wounded soldier who deserves the reward.

I did not mean to deny, that Mr. Horne had been an active partizan. It would defeat my own purpose not to allow him a degree of merit which aggravates his guilt. The very charge *of contributing his utmost efforts to support a ministerial measure,* implies an knowledgment of his

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former services. If he had not once been distinguished by his apparent zeal in defence of the common cause, he could not now be distinguished by deserting it. As for myself, it is no longer a question, *Whether I shall mix with the throng, and take a single share in the danger.* Whenever Junius appears, he must encounter an host of enemies. But is there no honourable way to serve the public, without engaging in personal quarrels with insignificant individuals, or submitting to the drudgery of canvassing votes for an election? Is there no merit in dedicating my life to the information of my fellow-subjects? What public question have I declined? What villain have I spared? Is there no labour in the composition of these letters?—Mr. Horne, I fear, is partial to me, and measures the facility of my writings by the fluency of his own.

He talks to us in high terms of the gallant feats he would have performed if he had lived in the last century. The unhappy Charles could hardly have escaped him. But living Princes have a claim to his attachment and respect.—Upon these terms, there is no danger in being a patriot. If he means any thing more than a pompous rhapsody, let us try how well his ar-

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gument holds together. I presume, he is not yet so much a courtier as to affirm, that the constitution has not been grossly and daringly violated under the present reign. He will not say, that the laws have not been shamefully broken or perverted; that the rights of the subject have not been invaded; or, that redress has not been repeatedly solicited and refused.—Grievances, like these, were the foundation of the rebellion in the last century; and, if I understand Mr. Horne, they would, at that period, have justified him, to his own mind, in deliberately attacking the life of his Sovereign. I shall not ask him, to what political constitution this doctrine can be reconciled: but, at least, it is incumbent upon him to shew, that the present King has better excuses than Charles the First, for the errors of his government. He ought to demonstrate to us, that the constitution was better understood an hundred years ago, than it is at present; that the legal rights of the subject, and the limits of the prerogative, were more accurately defined, and more clearly comprehended. If propositions, like these, cannot be fairly maintained, I do not see how he can reconcile it to his conscience, not to act immediately with the same freedom with which he speaks. I reverence the character of Charles

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the First as little as Mr. Horne; but I will not insult his misfortunes, by a comparison that would degrade him.

It is worth observing, by what gentle degrees the furious, persecuting zeal of Mr. Horne has softened into moderation. Men and measures were yesterday his object. What pains did he once take to bring that great state criminal *M'Quirk* to execution! To-day he confines himself to measures only; no penal example is to be left to the successors of the Duke of Grafton. To-morrow, I presume, both men and measures will be forgiven. The flaming patriot, who so lately scorched us in the meridian, shines temperately to the west, and is hardly felt as he descends.

I comprehend the policy of endeavouring to communicate to Mr. Oliver and Mr. Sawbridge a share in the reproaches with which he supposes me to have loaded him. My memory fails me, if I have mentioned their names with disrespect; unless it be reproachful to acknowledge a sincere respect for the character of Mr. Sawbridge, and not to have questioned the innocence of Mr. Oliver's intentions.

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It seems I am a partizan of the great leader of the opposition. If the charge had been a reproach, it should have been better supported. I did not intend to make a public declaration of the respect I bear Lord Chatham; I well knew that unworthy conclusions would be drawn from it. But I am called upon to deliver my opinion; and surely it is not in the little censure of Mr. Horne to deter me from doing signal justice to a man, who, I confess, has grown upon my esteem. As for the common sordid views of avarice, or any purpose of vulgar ambition, I question whether the applause of Junius would be of service to Lord Chatham. My vote will hardly recommend him to an increase of his pension, or to a seat in the cabinet. But, if his ambition be upon a level with his understanding, if he judges of what is truly honourable for himself, with the same superior genius which animates and directs him to eloquence in debate, to wisdom in decision, even the pen of Junius shall contribute to reward him. Recorded honours shall gather round his monument, and thicken over him. It is a solid fabric, and will support the laurels that adorn it. I am not conversant in the language of panegyric. These praises are extorted from me; but they will wear well, for they have been dearly earned.

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My detestation of the Duke of Grafton is not founded upon his treachery to any individual; though I am willing enough to suppose, that, in public affairs, it would be impossible to desert or betray Lord Chatham, without doing an essential injury to this country. My abhorrence of the Duke arises from an intimate knowledge of his character; and from a thorough conviction that his baseness has been the cause of greater mischief to England, than even the unfortunate ambition of Lord Bute.

The shortening the duration of Parliaments, is a subject on which Mr. Horne cannot enlarge too warmly, nor will I question his sincerity. If I did not profess the same sentiments, I should be shamefully inconsistent with myself. It is unnecessary to bind Lord Chatham by the written formality of an engagement. He has publicly declared himself a convert to triennial Parliaments; and though I have long been convinced, that this is the only possible resource we have left to preserve the substantial freedom of the constitution, I do not think we have a right to determine against the integrity of Lord Rockingham or his friends. Other measures may undoubtedly be supported, in argument, as better adapted to the disorder, or more likely to be obtained.

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Earl of Chatham

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Mr. Horne is well assured, that I never was the champion of Mr. Wilkes. But though I am not obliged to answer for the firmness of his future adherence to the principles he professes, I have no reason to presume, that he will hereafter disgrace them. As for all those imaginary cases which Mr. Horne so petulantly urges against me, I have one plain honest answer to make to him. Whenever Mr. Wilkes shall be convicted of soliciting a pension, an embassy, or a government, he must depart from that situation, and renounce that character, which he assumes at present, and which, in my opinion, entitles him to the support of the public. By the same act, and at the same moment, he will forfeit his power of mortifying the King: and though he can never be a favourite at St. James's, his baseness may administer a solid satisfaction to the royal mind. The man I speak of has not a heart to feel for the frailties of his fellow-creatures. It is their virtues that afflict, it is their vices that console him.

I give every possible advantage to Mr. Horne, when I take the facts he refers to for granted. That they are the produce of his invention, seems highly probable; that they are exaggerated, I have no doubt. At the worst, what do they

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amount to? but that Mr. Wilkes, who never was thought of as a perfect pattern of morality, has not been at all times proof against the extremity of distress. How shameful is it, in a man who has lived in friendship with him, to reproach him with failings too naturally connected with despair? Is no allowance to be made for banishment and ruin? Does a two years imprisonment make no atonement for his crimes? The resentment of a priest is implacable: no sufferings can soften, no penitence can appease him. Yet he himself, I think, upon his own system, has a multitude of political offences to atone for. I will not insist upon the nauseous detail with which he so long disgusted the public: he seems to be ashamed of it. But what excuse will he make to the friends of the constitution, for labouring to promote *this consummately bad man* to a station of the highest national trust and importance! Upon what honourable motives did he recommend him to the livery of London for their representative? to the ward of Farringdon for their alderman? to the county of Middlesex for their knight? Will he affirm, that, at that time, he was ignorant of Mr. Wilkes's solicitations to the Ministry? That he should say so, is, indeed, very necessary for his own justification; but where will he find credulity to believe him?

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In what school this gentleman learned his ethics I know not. His logic seems to have been studied under Mr. Dyson. That miserable pamphleteer, by dividing the only precedent in point, and taking as much of it as suited his purpose, had reduced his argument upon the Middlesex election to something like the shape of a syllogism. Mr. Horne has conducted himself with the same ingenuity and candour. I had affirmed, that Mr. Wilkes would preserve the public favour, "as long as he stood forth "against a Ministry and Parliament, who were "doing every thing they could to enslave the "country, and as long as he was a thorn in the "King's side." Yet, from the exulting triumph of Mr. Horne's reply, one would think that I had rested my expectation, that Mr. Wilkes would be supported by the public upon the single condition of his mortifying the King. This may be logic at Cambridge, or at the treasury; but, among men of sense and honour, it is folly or villany in the extreme.

I see the pitiful advantage he has taken of a single unguarded expression, in a letter not intended for the public. Yet it is only the *expression* that is unguarded. I adhere to the true meaning of that member of the sentence, taken

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separately as he takes it; and now, upon the coolest deliberation, re-assert, that, for the purposes I referred to, it may be highly meritorious to the public, to wound the personal feelings of the Sovereign. It is not a general proposition, nor is it generally applied to the Chief Magistrate of this, or any other constitution. Mr. Horne knows, as well as I do, that the best of Princes is not displeased with the abuse which he sees thrown upon his ostensible Ministers. It makes them, I presume, more properly the objects of his royal compassion. Neither does it escape his sagacity, that the lower they are degraded in the public esteem, the more submissively they must depend upon his favour for protection. This I affirm, upon the most solemn conviction, and the most certain knowledge, is a leading maxim in the policy of the closet. It is unnecessary to pursue the argument any farther.

Mr. Horne is now a very loyal subject. He laments the wretched state of politics in this country; and sees, in a new light, the weakness and folly of the opposition. *Whoever, or whatever, is Sovereign, demands the respect and support of the people**: it was not so *when Nero fid-*

*The very soliloquy of Lord Suffolk before he passed the Rubicon.

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dled while Rome was burning. Our gracious Sovereign has had wonderful success in creating new attachments to *his person and family.* He owes it, I presume, to the regular system he has pursued in the mystery of conversion. He began with an experiment upon the Scotch, and concludes with converting Mr. Horne. What a pity it is, that the Jews should be condemned by Providence to wait for a Messiah of their own!

The priesthood are accused of misinterpreting the Scriptures. Mr. Horne has improved upon his profession. He alters the text, and creates a refutable doctrine of his own. Such artifices cannot long delude the understandings of the people; and, without meaning an indecent comparison, I may venture to foretel, that the Bible and Junius will be read, when the commentaries of the Jesuits are forgotten.

JUNIUS.

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LETTER LV.

TO THE

PRINTER OF THE PUBLIC ADVERTISER.

SIR, August 26, 1771.

THE enemies of the people having now nothing better to object to my friend Junius, are, at last, obliged to quit his politics, and to rail at him for crimes he is not guilty of. His vanity and impiety are now the perpetual topics of their abuse. I do not mean to lessen the force of such charges, supposing they were true, but to shew that they are not founded. If I admitted the premises, I should readily agree in all the consequences drawn from them. Vanity, indeed, is a venal error; for it usually carries its own punishment with it; but, if I thought Junius capable of uttering a disrespectful word of the religion of his country, I should be the first to renounce and give him up to the public contempt and indignation. As a man, I am satisfied that he is a Christian, upon the most sincere conviction: as a writer, he would be grossly inconsistent with his political principles, if he dared to attack a religion, established by

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those laws, which it seems to be the purpose of his life to defend. Now for the proofs. Junius is accused of an impious allusion to the holy sacrament, where he says, That, *if Lord Weymouth be denied the cup, there would be no keeping him within the pale of the Ministry.* Now, Sir, I affirm, that this passage refers entirely to a ceremonial in the Roman Catholic church, which denies the cup to the laity. It has no manner of relation to the Protestant creed; and is in this country as fair an object of ridicule as *transubstantiation*, or any other part of Lord Peter's History, in the Tale of the Tub.

But Junius is charged with equal vanity and impiety, in comparing his writings to the Holy Scripture. The formal protest he makes against any such comparison avails him nothing. It becomes necessary then to shew that the charge destroys itself. If he be vain, he cannot be impious.

A vain man does not usually compare himself to an object which it is his design to undervalue. On the other hand, if he be impious, he cannot be vain; for his impiety, if any, must consist in his endeavouring to degrade the Holy Scriptures, by a comparison with his own contemptible

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writings. This would be folly, indeed, of the grossest nature; but where lies the vanity? I shall now be told, "Sir, what you say is plau-"sible enough; but still you must allow, that it "is shamefully impudent in Junius to tell us that "his works will live as long as the Bible." My answer is, *Agreed; but first prove that he has said so.* Look at his words, and you will find that the utmost he expects is, that the Bible and Junius will survive the commentaries of the Jesuits; which may prove true in a fortnight. The most malignant sagacity cannot show that his works are, *in his opinion*, to live as long as the Bible. Suppose I were to foretel, that Jack and Tom would survive Harry, does it follow that Jack must live as long as Tom? I would only illustrate my meaning, and protest against the least idea of profaneness.

Yet this is the way in which Junius is usually answered, arraigned, and convicted. These candid critics never remember any thing he says in honour of holy religion; though it is true, that one of his leading arguments is made to rest *upon the internal evidence which the purest of all religions carries with it.* I quote his words; and conclude from them, that he is a true and hearty Christian, in substance, not in ceremony;

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though possibly he may not agree with my Reverend Lords the Bishops, or with the head of the Church, *that prayers are morality, or that kneeling is religion.* PHILO JUNIUS.

LETTER LVI.

FROM THE

REVEREND MR. HORNE TO JUNIUS.

August 17, 1771.

I CONGRATULATE you, Sir, on the recovery of your wonted style, though it has cost you a fortnight. I compassionate your labour in the composition of your letters, and will communicate to you the secret of my fluency. Truth needs no ornament; and, in my opinion, what she borrows of the pencil is deformity.

You brought a positive charge against me of corruption. I denied the charge, and called for your proofs. You replied with abuse, and reasserted your charge. I called again for proofs. You reply again with abuse only, and drop your accusation. In your fortnight's letter, there is not one word upon the subject of my corruption.

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I have no more to say, but to return thanks to you for your condescension, and to a grateful public, and *honest* Ministry, for all the favours they have conferred upon me. The two latter, I am sure, will never refuse me any grace I shall solicit: and since you have been pleased to acknowledge, that you told a deliberate lie in my favour, out of bounty, and as a charitable donation, why may I not expect that you will hereafter (if you do not forget you ever mentioned my name with disrespect) make the same acknowledgment for what you have said to my prejudice? This second recantation will, perhaps, be more abhorrent from your disposition; but should you decline it, you will only afford one more instance, how much easier it is to be generous than just, and that men are sometimes bountiful who are not honest.

At all events, I am as well satisfied with panegyric as Lord Chatham can be. Monument I shall have none; but over my grave it will be said, in your own words, "*Horne's situation did "not correspond with his intentions**."

JOHN HORNE.

* The epitaph would not be ill suited to the character; at the best, it is but equivocal.

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LETTER LVII.

TO HIS GRACE THE DUKE OF GRAFTON.

MY LORD, September 28, 1771.

THE people of England are not apprised of the full extent of their obligations to you. They have yet no adequate idea of the endless variety of your character. They have seen you distinguished and successful in the continued violation of those moral and political duties, by which the little as well as the great societies of life are connected and held together. Every colour, every character became you. With a rate of abilities which Lord Weymouth very justly looks down upon with contempt, you have done as much mischief to the community as Cromwell would have done, if Cromwell had been a coward; and as much as Machiavel, if Machiavel had not known that an appearance of morals and religion are useful in society. To a thinking man, the influence of the Crown will, in no view, appear so formidable, as when he observes to what enormous excesses it has safely

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conducted your Grace, without a ray of real understanding, without even the pretensions to common decency or principle of any kind, or a single spark of personal resolution. What must be the operation of that pernicious influence (for which our kings have wisely exchanged the nugatory name of prerogative) that in the highest stations can so abundantly supply the absence of virtue, courage, and abilities, and qualify a man to be the minister of a great nation, whom a private gentleman would be ashamed and afraid to admit into his family! Like the universal passport of an ambassador, it supersedes the prohibition of the laws, banishes the staple virtues of the country, and introduces vice and folly triumphantly into all the departments of the state. Other princes, besides his Majesty, have had the means of corruption within their reach, but they have used it with moderation. In former times, corruption was considered as a foreign auxiliary to government, and only called in upon extraordinary emergencies. The unfeigned piety, the sanctified religion of *George the Third*, have taught him to new model the civil forces of the state. The natural resources of the Crown are no longer confided in. Corruption glitters in the van, collects and maintains a standing army of mercenaries, and, at the same moment, im-

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poverishes and enslaves the country. His Majesty's predecessors (excepting that worthy family from which you, my Lord, are unquestionably descended) had some generous qualities in their composition, with vices, I confess, or frailties, in abundance. They were kings or gentlemen, not hypocrites or priests. They were at the head of the church, but did not know the value of their office. They said their prayers without ceremony, and had so little priest-craft in their understanding to reconcile the sanctimonious forms of religion with the utter destruction of the morality of their people. My Lord, this is fact, not declamation. With all your partiality to the House of Stuart, you must confess that even Charles the Second would have blushed at that open encouragement, at those eager, meretricious caresses, with which every species of private vice and public prostitution is received at St. James's. The unfortunate House of Stuart has been treated with an asperity which, if comparison be a defence, seems to border upon injustice. Neither Charles, nor his brother, were qualified to support such a system of measures as would be necessary to change the government, and subvert the constitution, of England. One of them was too much in earnest in his pleasures, the other in his reli-

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gion. But the danger to this country would cease to be problematical, if the Crown should ever descend to a prince, whose apparent simplicity might throw his subjects off their guard, who might be no libertine in behaviour, who should have no sense of honour to restrain him, and who, with just religion enough to impose upon the multitude, might have no scruples of conscience to interfere with his morality. With these honourable qualifications, and the decisive advantage of situation, low craft and falsehood are all the abilities that are wanting to destroy the wisdom of ages, and to deface the noblest monument that human policy has erected.—I know *such* a man: My Lord, I know you both; and, with the blessing of God (for I, too, am religious) the people of England shall know you as well as I do. I am not very sure that greater abilities would not, in effect, be an impediment to a design which seems, at first sight, to require a superior capacity. A better understanding might make him sensible of the wonderful beauty of that system he was endeavouring to corrupt: the danger of the attempt might alarm him: the meanness and intrinsic worthlessness of the object (supposing he could attain it) would fill him with shame, repentance, and disgust. But these are sensations which find no entrance into a

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barbarous, contracted heart. In some men there is a malignant passion to destroy the works of genius, literature, and freedom. The Vandal and the monk find equal gratification in it.

Reflections like these, my Lord, have a general relation to your Grace, and inseparably attend you, in whatever company or situation your character occurs to us. They have no immediate connexion with the following recent fact, which I lay before the public, for the honour of the best of Sovereigns, and for the edification of his people. A Prince, (whose piety and self-denial, one would think, might secure him from such a multitude of worldly necessities) with an annual revenue of near a million sterling, unfortunately *wants money.* The navy of England, by an equally strange concurrence of unforeseen circumstances (though not quite so unfortunately for his Majesty) is in equal want of timber. The world knows in what a hopeful condition you delivered the navy to your successor, and in what a condition we found it in the moment of distress. You were determined it should continue in the situation in which you left it. It happened, however, very luckily for the privy purse, that one of the above wants

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promised fair to supply the other. Our religious, benevolent, generous Sovereign has no objection to selling his own timber to his own admiralty, to repair his own ships, nor to putting the money into his own pocket. People of a religious turn naturally adhere to the principles of the church; whatever they acquire falls into *mort-main*. Upon a representation from the admiralty of the extraordinary want of timber for the indispensible repairs of the navy, the surveyor-general was directed to make a survey of the timber in all the royal chaces and forests in England. Having obeyed his orders with accuracy and attention, he reported that the finest timber he had any where met with, and the properest, in every respect, for the purposes of the navy, was in Whittlebury Forest, of which your Grace, I think, is hereditary ranger. In consequence of this report, the usual warrant was prepared at the treasury, and delivered to the surveyor, by which he, or his deputy, were authorised to cut down the trees in Whittlebury Forest, which should appear to be proper for the purposes above-mentioned. The deputy, being informed that the warrant was signed, and delivered to his principal in London, crosses the country to Northamptonshire, and, with an officious zeal for the public service, begins

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so do his duty in the forest. Unfortunately for him, he had not the warrant in his pocket. The oversight was enormous; and you have punished him for it accordingly. You have insisted, that an active, useful officer should be dismissed from his place. You have ruined an innocent man and his family. In what language shall I address so black, so cowardly a tyrant? Thou worse than *one* of the Brunswicks, and all the Stuarts! To them who know Lord North, it is unnecessary to say, that he was mean and base enough to submit to you. This, however, is but a small part of the fact. After ruining the surveyor's deputy, for acting without the warrant, you attacked the warrant itself. You declared that it was illegal; and swore, in a fit of foaming, frantic passion, that it never should be executed. You asserted, upon your honour, that, in the grant of the rangership of Whittlebury Forest, made by Charles the Second (whom, with a modesty that would do honour to Mr. Rigby, you are pleased to call your ancestor) to one of his bastards, (from whom I make no doubt of your descent,) the property of the timber is vested in the ranger. I have examined the original grant; and now, in the face of the public, contradict you directly upon the fact. The very reverse of what you have asserted upon

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your honour is the truth. The grant, *expressly, and by a particular clause,* reserves the property of the timber for the *use of the Crown.* In spite of this evidence, in defiance of the representations of the admiralty, in perfect mockery of the notorious distresses of the English navy, and those equally pressing and almost equally notorious necessities of your pious Sovereign, here the matter rests. The Lords of the Treasury recal their warrant; the deputy-surveyor is ruined for doing his duty; Mr. John Pitt (whose name, I suppose, is offensive to you) submits to be brow-beaten and insulted; the oaks keep their ground; the King is defrauded; and the navy of England may perish for want of the best and finest timber in the island. And all this is submitted to, to appease the Duke of Grafton! to gratify the man who has involved the King and his kingdom in confusion and distress; and who, like a treacherous coward, deserted his Sovereign in the midst of it!

There has been a strange alteration in your doctrine, since you thought it adviseable to rob the Duke of Portland of his property, in order to strengthen the interest of Lord Bute's son-in-law before the last general election. *Nullum tempus occurrit regi* was then your boasted

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motto, and the cry of all your hungry partizans. Now it seems a grant of Charles the Second to one of his bastards is to be held sacred and inviolable! It must not be questioned by the King's Servants, nor submitted to any interpretation but your own. My Lord, this was not the language you held, when it suited you to insult the memory of the glorious deliverer of England from that detested family to which you are still more nearly allied in principle than in blood. In the name of decency and common sense, what are your Grace's merits, either with King or Ministry, that should entitle you to assume this domineering authority over both? Is it the fortunate consanguinity you claim with the House of Stuart? Is it the secret correspondence you have so many years carried on with Lord Bute, by the assiduous assistance of your *cream-coloured parasite*? Could not your gallantry find sufficient employment for him, in those *gentle* offices by which he first acquired the tender friendship of Lord Barrington? Or is it only that wonderful sympathy of manners which subsists between your Grace and one of your superiors, and does so much honour to you both? Is the union of *Blyfil* and *Black George* no longer a *romance*? From whatever origin your influence in this country arises, it is a

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phenomenon in the history of human virtue and understanding. Good men can hardly believe the fact; wise men are unable to account for it. Religious men find exercise for their faith, and make it the last effort of their piety not to repine against Providence.

JUNIUS.

LETTER LVIII.

ADDRESSED

TO THE LIVERY OF LONDON.

GENTLEMEN, September 30, 1771.

IF you alone were concerned in the event of the present election of a chief magistrate of the metropolis, it would be the highest presumption in a stranger to attempt to influence your choice, or even to offer you his opinion. But the situation of public affairs has annexed an extraordinary importance to your resolutions. You cannot, in the choice of your magistrate, determine for yourselves only. You are going to determine upon a point, in which every member of the community is interested. I will not

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scruple to say, that the very being of that law, of that right, of that constitution, for which we have been so long contending, is now at stake. They who would ensnare your judgment, tell you, it is a common ordinary case, and to be decided by ordinary precedent and practice. They artfully conclude, from moderate peaceable times, to times which are not moderate, and which ought not to be peaceable. While they solicit your favour, they insist upon a rule of rotation, which excludes all idea of election.

Let me be honoured with a few minutes of your attention. The question, to those who mean fairly to the liberty of the people, (which we all profess to have in view,) lies within a very narrow compass. Do you mean to desert that just and honourable system of measures which you have hitherto pursued, in hopes of obtaining from Parliament, or from the Crown, a full redress of past grievances, and a security for the future? Do you think the cause desperate, and will you declare that you think so to the whole people of England? If this be your meaning and opinion, you will act consistently with it in chusing Mr. Nash. I profess to be unacquainted with his private character; but he has acted as a magistrate, as a public man. As

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such I speak of him. I see his name in a protest against one of your remonstrances to the Crown. He has done every thing in his power to destroy the freedom of popular elections in the city, by publishing the poll upon a former occasion; and I know, in general, that he has distinguished himself, by slighting and thwarting all those public measures which you have engaged in with the greatest warmth, and hitherto thought most worthy of your approbation. From his past conduct, what conclusion will you draw, but that he will act the same part as Lord Mayor, which he has invariably acted as Alderman and Sheriff? He cannot alter his conduct without confessing, that he never acted upon principle of any kind. I should be sorry to injure the character of a man, who, perhaps, may be honest in his intention, by supposing it possible that he can ever concur with you in any political measure or opinion.

If, on the other hand, you mean to persevere in those resolutions for the public good, which, though not always successful, are always honourable, your choice will naturally incline to those men who (whatever they be in other respects) are most likely to co-operate with you in the great purpose, which you are determined not to

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relinquish. The question is not, of what metal your instruments are made, but *whether they are adapted to the work you have in hand.* The honours of the city, in these times, are improperly, because exclusively, called a reward. You mean not merely to pay, but to employ. Are Mr. Crosby and Mr. Sawbridge likely to execute the extraordinary, as well as the ordinary, duties of Lord Mayor? Will they grant you common-halls when it shall be necessary? Will they go up with remonstrances to the King? Have they firmness enough to meet the fury of a venal House of Commons? Have they fortitude enough not to shrink at imprisonment? Have they spirit enough to hazard their lives and fortunes in a contest, if it should be necessary, with a prostituted Legislature? If these questions can fairly be answered in the affirmative, your choice is made. Forgive this passionate language. I am unable to correct it. The subject comes home to us all. It is the language of my heart.

JUNIUS.

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LETTER LIX.

TO THE

PRINTER OF THE PUBLIC ADVERTISER.

SIR, October 5, 1771.

NO man laments more sincerely than I do, the unhappy differences which have arisen among the friends of the people, and divided them from each other. The cause, undoubtedly, suffers as well by the diminution of that strength which union carries along with it, as by the separate loss of personal reputation, which every man sustains when his character and conduct are frequently held forth in odious or contemptible colours. These differences are only advantageous to the common enemy of the country. The hearty friends of the cause are provoked and disgusted. The lukewarm advocate avails himself of any pretence to relapse into that indolent indifference about every thing that ought to interest an Englishman so unjustly dignified with the title of moderation. The false, insidious partizan, who creates or foments the disorder, sees the fruit of his honest industry ripen beyond his hopes, and rejoices in the promise of a

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banquet, only delicious to such an appetite as his own. It is time for those who really mean the *Cause* and the *People*, who have no view to private advantage, and who have virtue enough to prefer the general good of the community to the gratification of personal animosities; it is time for such men to interpose. Let us try whether these fatal dissentions may not be reconciled; or, if that be impracticable, let us guard at least against the worst effects of division, and endeavour to persuade these furious partizans, if they will not consent to draw together, to be separately useful to that cause which they all pretend to be attached to. Honour and honesty must not be renounced, although a thousand modes of right and wrong were to occupy the degrees of morality between Zeno and Epicurus. The fundamental principles of Christianity may still be preserved, though every zealous sectary adheres to his own exclusive doctrine, and pious ecclesiastics make it part of their religion to persecute one another. The civil constitution, too, that legal liberty, that general creed which every Englishman professes, may still be supported, though Wilkes and Horne, and Townshend and Sawbridge, should obstinately refuse to communicate; and even if the fathers of the

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church, if Savile, Richmond, Camden, Rockingham, and Chatham, should disagree in the ceremonies of their political worship, and even in the interpretation of twenty texts in Magna Charta. I speak to the people, as one of the people. Let us employ these men in whatever departments their various abilities are best suited to, and as much to the advantage of the common cause, as these different inclinations will permit. They cannot serve us, without essentially serving themselves.

If Mr. Nash be elected, he will hardly venture, after so recent a mark of the personal esteem of his fellow-citizens, to declare himself immediately a courtier. The spirit and activity of the sheriffs will, I hope, be sufficient to counteract any sinister intentions of the Lord Mayor. In collision with their virtue, perhaps, he may take fire.

It is not necessary to exact from Mr. Wilkes the virtues of a Stoic. They were inconsistent with themselves, who, almost at the same moment, represented him as the basest of mankind, yet seemed to expect from him such instances of fortitude and self-denial, as would do honour to an apostle. It is not, however, flattery to

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say, that he is obstinate, intrepid, and fertile in expedients. That he has no possible resource but in the public favour, is, in my judgment, a considerable recommendation of him. I wish that every man who pretended to popularity were in the same predicament. I wish that a retreat to St. James's were not so easy and open as patriots have found it. To Mr. Wilkes there is no access. However he may be misled by passion or imprudence, I think he cannot be guilty of a deliberate treachery to the public. The favour of his country constitutes the shield which defends him against a thousand daggers. Desertion would disarm him.

I can more readily admire the liberal spirit and integrity, than the sound judgment, of any man who prefers a republican form of government, in this or any other empire of equal extent, to a monarchy so qualified and limited as ours. I am convinced, that neither is it in theory the wisest system of government, nor practicable in this country. Yet, though I hope the English constitution will for ever preserve its original monarchical form, I would have the manners of the people purely and strictly republican. I do not mean the licentious spirit of anarchy and riot. I mean a general attachment

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to the common weal, distinct from any partial attachment to persons or families; an implicit submission to the laws only; and an affection to the magistrate, proportioned to the integrity and wisdom with which he distributes justice to his people, and administers their affairs. The present habit of our political body appears to me the very reverse of what it ought to be. The form of the constitution leans rather more than enough to the popular branch; while, in effect, the manners of the people (of those at least who are likely to take a lead in the country) incline too generally to a dependence upon the Crown. The real friends of arbitrary power combine the facts, and are not inconsistent with their principles, when they strenuously support the unwarrantable privileges assumed by the House of Commons. In these circumstances, it were much to be desired, that we had many such men as Mr. Sawbridge to represent us in Parliament. I speak from common report and opinion only, when I impute to him a speculative predilection in favour of a republic. In the personal conduct and manners of the man I cannot be mistaken. He has shewn himself possessed of that republican firmness which the times require; and by which an English gentleman may be as usefully and as honourably distinguished, as any citizen of ancient Rome, of Athens, or Lacedemon.

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Mr. Townshend complains that the public gratitude has not been answerable to his deserts. It is not difficult to trace the artifices which have suggested to him a language so unworthy of his understanding. A great man commands the affections of the people: a prudent man does not complain when he has lost them. Yet they are far from being lost to Mr. Townshend. He has treated our opinion a little too cavalierly. A young man is apt to rely too confidently upon himself, to be as attentive to his mistress as a polite and passionate lover ought to be. Perhaps he found her at first too easy a conquest. Yet I fancy she will be ready to receive him whenever he thinks proper to renew his addresses. With all his youth, his spirit, and his appearance, it would be indecent in the lady to solicit his return.

I have too much respect for the abilities of Mr. Horne, to flatter myself that these gentlemen will ever be cordially re-united. It is not, however, unreasonable to expect, that each of them should act his separate part with honour and integrity to the public. As for differences of opinion upon speculative questions, if we wait until they are reconciled, the action of human affairs must be suspended for ever. But neither are we to look for perfection in any one man,

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nor for agreement among many. When Lord Chatham affirms, that the authority of the British Legislature is not supreme over the Colonies in the same sense in which it is supreme over Great Britain; when Lord Camden supposes a necessity, (which the King is to judge of,) and, founded upon that necessity, attributes to the Crown a legal power (not given by the act itself,) to suspend the operation of an act of the Legislature; I listen to them both with diffidence and respect, but without the smallest degree of conviction or assent. Yet I doubt not they delivered their real sentiments, nor ought they to be hastily condemned. I too have a claim to the candid interpretation of my country, when I acknowledge an involuntary, compulsive assent to one very unpopular opinion. I lament the unhappy necessity, whenever it arises, of providing for the safety of the state by a temporary invasion of the personal liberty of the subject. Would to God it were practicable to reconcile these important objects in every possible situation of public affairs! I regard the legal liberty of the meanest man in Britain as much as my own, and would defend it with the same zeal. I know we must stand or fall together. But I never can doubt, that the community has a right to command, as well as to pur-

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chase, the service of its members. I see that right founded originally upon a necessity which supersedes all argument. I see it established by usage immemorial, and admitted by more than a tacit assent of the legislature. I conclude there is no remedy, in the nature of things, for the grievance complained of; for, if there were, it must long since have been redressed. Though numberless opportunities have presented themselves, highly favourable to public liberty, no successful attempt has ever been made for the relief of the subject in this article. Yet it has been felt and complained of ever since England had a navy. The conditions which constitute this right must be taken together; separately, they have little weight. It is not fair to argue, from any abuse in the execution, to the illegality of the power; much less is a conclusion to be drawn from the navy to the land service. A seaman can never be employed but against the enemies of his country. The only case in which the King can have a right to arm his subjects in general, is that of a foreign force being actually landed upon our coast. Whenever that case happens, no true Englishman will enquire whether the King's right to compel him to defend his country be the custom of England, or a grant of the legislature. With regard to the press for

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seamen, it does not follow that the symptoms may not be softened, although the distemper cannot be cured. Let bounties be increased as far as the public purse can support them. Still they have a limit; and when every reasonable expence is incurred, it will be found, in fact, that the spur of the press is wanted to give operation to the bounty.

Upon the whole, I never had a doubt about the strict right of pressing, until I heard that Lord Mansfield had applauded Lord Chatham for delivering something like this doctrine in the House of Lords. That consideration staggered me not a little. But, upon reflection, his conduct accounts naturally for itself. He knew the doctrine was unpopular, and was eager to fix it upon the man who is the first object of his fear and detestation. The cunning Scotchman never speaks truth without a fraudulent design. In council, he generally affects to take a moderate part. Besides his natural timidity, it makes part of his political plan, never to be known to recommend violent measures. When the guards are called forth to murder their fellow-subjects, it is not by the ostensible advice of Lord Mansfield. That odious office, his prudence tells him, is better left to such men as Gower and Wey-

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mouth, as Barrington and Grafton. Lord Hillsborough wisely confines his firmness to the distant Americans. The designs of Mansfield are more subtil, more effectual, and secure. Who attacks the liberty of the press? Lord Mansfield. Who invades the constitutional power of juries? Lord Mansfield. What judge ever challenged a juryman but Lord Mansfield? Who was that judge, who, to save the King's brother, affirmed that a man of the first rank and quality who obtains a verdict in a suit for criminal conversation, is entitled to no greater damages than the meanest mechanic? Lord Mansfield. Who is it makes Commissioners of the Great Seal? Lord Mansfield. Who is it that forms a decree for those Commissioners, deciding against Lord Chatham, and afterwards (finding himself opposed by the judges) declares in Parliament, that he never had a doubt that the law was in direct opposition to that decree? Lord Mansfield.—Who is he that has made it the study and practice of his life to undermine and alter the whole system of jurisprudence in the Court of King's-Bench? Lord Mansfield. There never existed a man but himself who answered exactly to so complicated a description. Compared to these enormities, his original attachment to the Pretender (to whom his dearest brother was confi-

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dential secretary) is a virtue of the first magnitude. But the hour of impeachment *will* come, and neither he nor Grafton shall escape me.—Now let them make a common cause against England and the House of Hanover. A Stuart and a Murray should sympathize with each other.

When I refer to signal instances of unpopular opinions, delivered and maintained by men, who may well be supposed to have no view but the public good, I do not mean to renew the discussion of such opinions. I should be sorry to revive the dormant questions of *Stamp Act*, *Corn Bill*, or *Press-Warrant*. I mean only to illustrate one useful proposition, which it is the intention of this paper to inculcate,—*That we should not generally reject the friendship or services of any man, because he differs from us in a particular opinion.* This will not appear a superfluous caution, if we observe the ordinary conduct of mankind. In public affairs, there is the least chance of a perfect concurrence of sentiment or inclination: yet every man is able to contribute something to the common stock, and no man's contribution should be rejected. If individuals have no virtues, their vices may be of use to us. I care not with what prin-

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ciple the new-born patriot is animated, if the measures he supports are beneficial to the community. The nation is interested in his conduct. His motives are his own. The properties of a patriot are perishable in the individual; but there is a quick succession of subjects, and the breed is worth preserving. The spirit of the Americans may be an useful example to us. Our dogs and horses are only English upon English ground; but patriotism, it seems, may be improved by transplanting. I will not reject a bill which tends to confine parliamentary privilege within reasonable bounds, though it should be stolen from the House of Cavendish, and introduced by Mr. Onslow. The features of the infant are a proof of the descent, and vindicate the noble birth from the baseness of the adoption. I willingly accept of a sarcasm from Colonel Barré, or a simile from Mr. Burke. Even the silent vote of Mr. Calcraft is worth reckoning in a division. What though he riots in the plunder of the army, and has only determined to be a patriot when he could not be a peer? Let us profit by the assistance of such men while they are with us, and place them, if it be possible, in the post of danger to prevent desertion. The wary Wedderburne, the pompous Suffolk, never threw away the scabbard,

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nor even went upon a forlorn hope. They always treated the King's Servants as men with whom, some time or other, they might possibly be in friendship. When a man, who stands forth for the public, has gone that length from which there is no practicable retreat, when he has given that kind of personal offence, which a pious monarch never pardons, I then begin to think him in earnest, and that he will never have occasion to solicit the forgiveness of his country. But instances of a determination so entire and unreserved are rarely met with. Let us take mankind as they are; let us distribute the virtues and abilities of individuals according to the offices they affect; and, when they quit the service, let us endeavour to supply their places with better men than we have lost. In this country there are always candidates enough for popular favour. The temple of Fame is the shortest passage to riches and preferment.

Above all things, let me guard my countrymen against the meanness and folly of accepting of a trifling or moderate compensation for extraordinary and essential injuries. Our enemies treat us as the cunning trader does the unskilful Indian; they magnify their generosity, when they give us baubles of little proportionate value

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for ivory and gold. The same House of Commons, who robbed the constituent body of their right of free election; who presume to make a law, under pretence of declaring it; who paid our good King's debts, without once enquiring how they were incurred; who gave thanks for repeated murders committed at home, and for national infamy incurred abroad; who screened Lord Mansfield; who imprisoned the magistrates of the metropolis for asserting the subject's right to the protection of the laws; who erased a judicial record, and ordered all proceedings in a criminal suit to be suspended: this very House of Commons have graciously consented that their own Members may be compelled to pay their debts, and that contested elections shall, for the future, be determined with some decent regard to the merits of the case. The event of the suit is of no consequence to the Crown. While parliaments are septennial, the purchase of the sitting member, or of the petitioner, makes but the difference of a day. Concessions such as these are of little moment to the sum of things; unless it be to prove that the worst of men are sensible of the injuries they have done us, and perhaps to demonstrate to us the imminent danger of our situation. In the shipwreck of

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the state, trifles float, and are preserved; while every thing solid and valuable sinks to the bottom, and is lost for ever.

JUNIUS.

LETTER LX.

TO THE

PRINTER OF THE PUBLIC ADVERTISER.

SIR, October 15, 1771.

I AM convinced that Junius is incapable of wilfully misrepresenting any man's opinion, and that his inclination leads him to treat Lord Camden with particular candour and respect. The doctrine attributed to him by Junius, as far as it goes, corresponds with that stated by your correspondent *Scævola*, who seems to make a distinction without a difference. Lord Camden, it is agreed, did certainly maintain, that, in the recess of Parliament, the King (by which we all mean the *King in Council*, or the Executive Power,) might suspend the operation of an Act of the Legislature; and he founded his doctrine upon a supposed necessity, of which

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this King, in the first instance, must be judge. The Lords and Commons cannot be judges of it in the first instance, for they do not exist. Thus far Junius.

But, says Scævola, Lord Camden made Parliament, and not the King, judges of the necessity. That Parliament may review the acts of ministers, is unquestionable; but there is a wide difference between saying, that the Crown has a *legal* power, and that Ministers may act *at their peril*. When we say that an act is illegal, we mean that it is forbidden by a joint resolution of the three estates. How a subsequent resolution of two of those branches can make it legal, *ab initio*, will require explanation. If it could, the consequence would be truly dreadful, especially in these times. There is no act of arbitrary power, which the King might not attribute to necessity, and for which he would not be secure of obtaining the approbation of his prostituted Lords and Commons. If Lord Camden admits that the subsequent sanction of Parliament was necessary to make the proclamation legal, why did he so obstinately oppose the bill, which was soon after brought in, for indemnifying all those persons who had acted under it? If that bill had not been passed, I am ready to maintain,

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in direct contradiction to Lord Camden's doctrine (taken as Scævola states it) that a litigious exporter of corn, who had suffered in his property, in consequence of the proclamation, might have laid his action against the custom-house officers, and would infallibly have recovered damages. No jury could refuse them: and if I, who am by no means litigious, had been so injured, I would assuredly have instituted a suit in Westminster-hall, on purpose to try the question of right. I would have done it upon a principle of defiance of the pretended power of either or both Houses to make declarations inconsistent with law; and I have no doubt that, with an act of Parliament on my side, I should have been too strong for them all. This is the way in which an Englishman should speak and act; and not suffer dangerous precedents to be established, because the circumstances are favourable or palliating.

With regard to Lord Camden, the truth is, that he inadvertently overshot himself, as appears plainly by that unguarded mention of *a tyranny of forty days*, which I myself heard. Instead of asserting, that the proclamation was *legal*, he should have said, "My Lords, I know the proclamation was *illegal*; but I advised it, be-

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"cause it was indispensably necessary to save "the kingdom from famine; and I submit my- "self to the justice and mercy of my country."

Such language as this would have been manly, rational, and consistent: not unfit for a lawyer, and every way worthy of a great man.

PHILO JUNIUS.

P. S. If Scævola should think proper to write again upon this subject, I beg of him to give me a direct answer; that is, a plain affirmative or negative, to the following questions: In the interval between the publishing such a proclamation (or order of council) as that in question, and its receiving the sanction of the two Houses, of what nature is it? Is it *legal* or *illegal?* or, is it neither one nor the other? I mean to be candid, and will point out to him the consequence of his answer either way. If it be legal, it wants no farther sanction: if it be illegal, the subject is not bound to obey it, consequently it is an useless, nugatory act, even as to its declared purpose. Before the meeting of Parliament, the whole mischief which it means to prevent will have been completed.

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LETTER LXI.

TO ZENO.

SIR, October 17, 1771.

THE sophistry of your letter in defence of Lord Mansfield is adapted to the character you defend. But Lord Mansfield is a man of *form*, and seldom in his behaviour transgresses the rules of decorum. I shall imitate his Lordship's good manners, and leave you in the full possession of his principles. I will not call you liar, Jesuit, or villain; but, with all the politeness imaginable, perhaps, I may prove you so.

Like other fair pleaders in Lord Mansfield's school of justice, you answer Junius by misquoting his words, and mistating his propositions. If I am candid enough to admit that this is the very logic taught at St. Omer's, you will readily allow that it is the constant practice in the Court of King's Bench. Junius does not say that he never had a doubt about the strict right of pressing, *till he knew Lord Mansfield was of the same opinion.* His words are, *until he heard that*

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W. Bromley sculp.

Earl of Mansfield.

Published by Vernor & Hood, 31 Poultry, April 1, 1796.

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Lord Mansfield had applauded Lord Chatham for maintaining that doctrine in the House of Lords. It was not the accidental concurrence of Lord Mansfield's opinion, but the suspicious applause given by a cunning Scotchman to the man he detests, that raised and justified a doubt in the mind of Junius. The question is not, whether Lord Mansfield be a man of learning and abilities (which Junius has never disputed;) but, whether or no he abuses and misapplies his talents.

Junius did not say that Lord Mansfield had advised the calling out of the guards. On the contrary, his plain meaning is, that he left that odious office to men less cunning than himself. Whether Lord Mansfield's doctrine concerning libels be or be not an attack upon the liberty of the press, is a question which the public in general are very well able to determine. I shall not enter into it at present. Nor do I think it necessary to say much to a man, who had the daring confidence to say to a jury, "Gentlemen, "you are to bring in a verdict *guilty* or *not* "*guilty*: but whether the defendant be guilty "or innocent, is not matter for *your* conside- "ration." Clothe it in what language you will, this is the sum total of Lord Mansfield's

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doctrine. If not, let Zeno show us the difference.

But it seems, *the liberty of the press may be abused,* and *the abuse of a valuable privilege is the certain means to lose it.* The first I admit: but let the abuse be submitted to a jury; a sufficient, and, indeed, the only legal and constitutional check upon the licence of the press. The second I flatly deny. In direct contradiction to Lord Mansfield, I affirm, that "the abuse of a valuable privilege *is not* the certain means to lose "it;" if it were, the English nation would have few privileges left; for, where is the privilege that has not, at one time or other, been abused by individuals? But it is false in reason and equity, that particular abuses should produce a general forfeiture. Shall the community be deprived of the protection of the laws, because there are robbers and murderers? Shall the community be punished, because individuals have offended? Lord Mansfield says so, consistently enough with his principles; but I wonder to find him so explicit. Yet, for one concession, however extorted, I confess myself obliged to him. The liberty of the press is, after all, a valuable privilege. I agree with him most heartily, and will defend it against him.

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You ask me, What juryman was challenged by Lord Mansfield? I tell you; his name was *Benson*. When his name was called, Lord Mansfield ordered the clerk to pass him by. As for his reasons, you may ask himself, for he assigned none: but I can tell you what all men thought of it. This Benson had been refractory upon a former jury, and would not accept of the law as delivered by Lord Mansfield; but had the *impudence* to pretend to *think for himself*. But you, it seems, honest Zeno, know nothing of the matter. You never read Junius's letter to your patron: You never heard of the intended instructions from the city to impeach Lord Mansfield: You never heard by what dexterity of Mr. Paterson that measure was prevented. How wonderful ill some people are informed!

Junius did never affirm, that the crime of seducing the wife of a mechanic or a peer, is not the same, taken in a moral or religious view. What he affirmed, in contradiction to the levelling principle so lately adopted by Lord Mansfield, was, *that the damages should be proportioned to the rank and fortune of the parties*: and for this plain reason (admitted by every other judge that ever sat in Westminster-hall) because what is a compensation or penalty to one man,

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is none to another. The sophistical distinction you attempt to draw between the person *injured* and the person *injuring*, is Mansfield all over. If you can once establish the proposition, that the injured party is not entitled to receive large damages, it follows, pretty plainly, that the party injuring should not be compelled to pay them; consequently the King's brother is effectually screened by Lord Mansfield's doctrine. Your reference to Nathan and David come naturally in aid of your patron's professed system of jurisprudence. He is fond of introducing into the Court of King's Bench any law that contradicts or excludes the common law of England; whether it be canon, civil, jus gentium, or Levitical. But, Sir, the Bible is the code of our religious faith, not of our municipal jurisprudence: and though it was the pleasure of God to inflict a particular punishment upon David's crime (taken as a breach of his divine commands) and to send his prophet to denounce it, an English jury have nothing to do either with David or the prophet. They consider the crime only as it is a breach of order, an injury to an individual, and an offence to society; and they judge of it by certain positive rules of law, or by the practice of their ancestors. Upon the whole, the man *after God's own heart* is much indebted to you for com-

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pairing him to the Duke of Cumberland. That his Royal Highness may be the man after Lord Mansfield's own heart, seems much more probable; and you, I think, Mr. Zeno, might succeed tolerably well in the character of Nathan. The evil deity, the prophet, and the royal sinner, would be very proper company for one another.

You say, Lord Mansfield did not make the commissioners of the Great Seal, and that he only advised the King to appoint. I believe Junius meant no more; and the distinction is hardly worth disputing.

You say he *did not* deliver an opinion upon Lord Chatham's appeal. I affirm that he did, directly in favour of the appeal. This is a point of fact to be determined by evidence only. But you assign no reason for his supposed silence, nor for his desiring a conference with the judges the day before. Was not all Westminster-hall convinced that he did it with a view to puzzle them with some perplexing question, and in hopes of bringing some of them over to him? You say the commissioners were *very capable of framing a decree for themselves*. By the fact, it only appears, that they were capable of framing

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an *illegal* one; which, I apprehend, is not much to the credit either of their learning or integrity.

We are both agreed, that Lord Mansfield has incessantly laboured to introduce new modes of proceeding in the court where he presides; but you attribute it to an honest zeal in behalf of innocence, oppressed by quibble and chicane. I say, that he has introduced *new law* too, and removed the landmarks established by former decisions. I say, that his view is, to change a court of common law into a court of equity, and to bring every thing within the *arbitrium* of a *prætorian* court. The public must determine between us. But now for his merits. First, then, the establishment of the judges in their places for life, (which you tell us was advised by Lord Mansfield) was a concession merely to catch the people. It bore the appearance of a royal bounty, but had nothing real in it. The judges were already for life, excepting in the case of a demise. Your boasted bill only provides, that it shall not be in the power of the King's successor to remove them. At the best, therefore, it is only a legacy, not a gift, on the part of his present Majesty, since, for himself, he gives up nothing. That he did oppose Lord Camden and Lord Northington upon the proclamation against

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the exportation of corn, is most true, and with great ability. With his talents, and taking the right side of so clear a question, it was impossible to speak ill. His motives are not so easily penetrated. They who are acquainted with the state of politics at that period, will judge of them somewhat differently from Zeno. Of the popular bills, which you say he supported in the House of Lords, the most material is unquestionably that of Mr. Grenville for deciding contested elections. But I should be glad to know upon what possible pretence, any Member of the Upper House could oppose such a bill, after it had passed the House of Commons? I do not pretend to know what share he had in prompting the other two bills; but I am ready to give him all the credit you desire. Still you will find, that a whole life of deliberate iniquity is ill atoned for by doing now and then a laudable action, upon a mixed or doubtful principle. If it be unworthy of him, thus ungratefully treated, to labour any longer for the public, in God's name, let him retire. His brother's patron (whose health he once was anxious for) is dead; but the son of that unfortunate prince survives, and, I dare say, will be ready to receive him.

PHILO JUNIUS.

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LETTER LXII.

TO AN

ADVOCATE IN THE CAUSE OF THE PEOPLE.

SIR, October 18, 1771.

YOU do not treat Junius fairly. You would not have condemned him so hastily, if you had ever read Judge Foster's argument upon the legality of pressing seamen. A man who has not read that argument, is not qualified to speak accurately upon the subject. In answer to strong facts and fair reasoning, you produce nothing but a vague comparison between two things which have little or no resemblance to each other. *General Warrants*, it is true, had been often issued; but they had never been regularly questioned or resisted until the case of Mr. Wilkes. He brought them to trial; and the moment they were tried, they were declared *illegal*. This is not the case of *Press Warrants*. They have been complained of, questioned, and resisted in a thousand instances; but still the legislature have never interposed, nor has there ever been a formal decision against them in any of the superior courts. On the contrary, they have been frequently recognized and admitted by Parliament; and there are judicial opinions

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given in their favour by judges of the first character. Under the various circumstances stated by Junius, he has a right to conclude for himself, that there is no remedy. If you have a good one to propose, you may depend upon the assistance and applause of Junius. The magistrate who guards the liberty of the individual deserves to be commended. But let him remember, that it is also his duty to provide for, or at least not to hazard, the safety of the community. If, in the case of a foreign war, and the expectation of an invasion, you would rather keep your fleet in harbour, than man it by pressing seamen, who refuse the bounty, I have done.

You talk of disbanding the army with wonderful ease and indifference. If a wiser man held such language, I should be apt to suspect his sincerity.

As for keeping up a much greater number of seamen in time of peace, it is not to be done: you will oppress the merchant, you will distress trade, and destroy the nursery of your seamen. He must be a miserable statesman who voluntarily, by the same act, increases the public expence, and lessens the means of supporting it.

PHILO JUNIUS.

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LETTER LXIII.

October 22, 1771.

A FRIEND of Junius desires it may be observed (in answer to *A Barrister at Law.)*

1*mo.* That the fact of Lord Mansfield's having ordered a juryman to be passed by (which poor Zeno never heard of) is now formally admitted. When Mr. *Benson's* name was called, Lord Mansfield was observed to flush in the face (a signal of guilt not uncommon with him) and cried out, *Pass him by.* This I take to be something more than a peremptory challenge: it is an *unlawful command*, without any reason assigned. That the counsel did not resist, is true; but this might happen either from inadvertence, or a criminal complaisance to Lord Mansfield. You barristers are too apt to be civil to my Lord Chief Justice, at the expence of your clients.

2*do.* Junius did never say, that Lord Mansfield had *destroyed* the liberty of the press. "That "his Lordship has *laboured to destroy*, that his

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" doctrine is an *attack* upon the liberty of the " press, that it is an *invasion* of the right of ju- " ries," are the propositions maintained by Junius. His opponents never answer him in point; for they never meet him fairly upon his own ground.

3tio. Lord Mansfield's policy, in endeavouring to screen his unconstitutional doctrines behind an act of the legislature, is easily understood. Let every Englishman stand upon his guard: the right of juries to return a general verdict, in all cases whatsoever, is a part of our constitution. It stands in no need of a bill, either enacting or declaratory, to confirm it.

4to. With regard to the Grosvenor cause, it is pleasant to observe, that the doctrine attributed by Junius to Lord Mansfield, is admitted by Zeno, and directly defended. The Barrister has not the assurance to deny it flatly; but he evades the charge, and softens the doctrine, by such poor contemptible quibbles as cannot impose upon the meanest understanding.

5to. The quantity of business in the Court of King's Bench, proves nothing but the litigious spirit of the people, arising from the great in-

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crease of wealth and commerce. These, however, are now upon the decline, and will soon leave nothing but *law-suits* behind them. When Junius affirms, that Lord Mansfield has laboured to alter the system of jurisprudence in the Court where his Lordship presides, he speaks to those who are able to look a little farther than the vulgar. Besides, that the multitude are easily deceived by the imposing names of *equity* and *substantial justice*, it does not follow, that a judge, who introduces into his court new modes of proceeding, and new principles of law, intends, in every instance, to decide unjustly. Why should he, where he has no interest? We say, that Lord Mansfield is a *bad man*, and a *worse judge;* but we do not say that he is a *mere devil.* Our adversaries would fain reduce us to the difficulty of proving too much. This artifice, however, shall not avail him. The truth of the matter is plainly this; when Lord Mansfield has succeeded in his scheme of changing a court of common law to a court of equity, he will have it in his power to do injustice *whenever he thinks proper*. This, though a wicked purpose, is neither absurd nor unattainable.

6*to.* The last paragraph, relative to Lord Chatham's cause, cannot be answered. It partly

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refers to facts of too secret a nature to be ascertained, and partly is unintelligible. "Upon one "point the cause is decided against Lord Chat- "ham: upon another point it is decided for "him." Both the law and the language are well suited to a Barrister! If I have any guess at this honest gentleman's meaning, it is, That "whereas "the commissioners of the great seal saw the "question in a point of view unfavourable to "Lord Chatham, and decreed accordingly; Lord "Mansfield, out of shere love and kindness to "Lord Chatham, took the pains to place it in a "point of view more favourable to the *appel-* "*lant.*" *Credat Judæus Apella.* So curious an assertion would stagger the faith of Mr. Sylva.

LETTER LXIV.

November 2, 1771.

WE are desired to make the following declaration, in behalf of Junius, upon three material points, on which his opinon has been mistaken or misrepresented.

1*mo.* Junius considers the right of taxing the Colonies, by an Act of the British Legislature,

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as a *speculative* right merely, never to be *exerted*, nor ever to be *renounced*. To his judgment it appears plain, "That the general reasonings "which were employed against that power, went "directly to our whole legislative right; and "that one part of it could not be yielded to such "arguments, without a virtual surrender of all "the rest."

2*do*. That, with regard to press-warrants, his argument should be taken in his own words, and answered strictly; that the comparisons may sometimes illustrate, but prove nothing; and that, in this case, an appeal to the passions is unfair, and unnecessary. Junius feels and acknowledges the evil in the most express terms, and will show himself ready to concur in any rational plan that may provide for the liberty of the individual, without hazarding the safety of the community. At the same time he expects that the evil, such as it is, be not exaggerated or misrepresented. In general, it is not unjust, that, when the rich man contributes his wealth, the poor man should serve the state in person; otherwise, the latter contributes nothing to the defence of that law and constitution from which he demands safety and protection. But the question does not lie between the rich and

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poor. The laws of England make no such distinctions. Neither is it true, that the poor man is torn from the care and support of a wife and family, helpless without him. The single question is, Whether the *seaman**, in times of public danger, shall serve the merchant, or the state, in that profession to which he was bred, and by the exercise of which alone, he can honestly support himself and his family? General arguments against the doctrine of necessity, and the dangerous use that may be made of it, are of no weight in this particular case. Necessity includes the idea of inevitable. Whenever it is so, it creates a law to which all positive laws, and all positive rights, must give way. In this sense, the levy of ship-money by the King's warrant was not necessary, because the business might have been as well or better done by Parliament. If the doctrine maintained by Junius be confined within this limitation, it will go but a very little way in support of arbitrary power. That the King is to judge of the occasion, is no objection, unless we are told how it can possibly be otherwise. There are other instances, not less important in the exercise, not less dangerous

* I confine myself strictly to *seamen*. If any others are pressed, it is a gross abuse, which the magistrate can and should correct.

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in the abuse, in which the constitution relies entirely upon the King's judgment. The executive power proclaims war and peace, binds the nation by treaties, orders general embargoes, and imposes quarantines; not to mention a multitude of prerogative writs, which, though liable to the greatest abuses, were never disputed.

Stio. It has been urged, as a reproach to Junius, that he has not delivered an opinion upon the *game laws*, and particularly the late *dog act*. But Junius thinks he has much greater reason to complain, that he is never assisted by those who are able to assist him: and that almost the whole labour of the press is thrown upon a single hand, from which a discussion of every public question is unreasonably expected. He is not paid for his labour, and certainly has a right to choose his employment. As to the game laws, he never scrupled to declare his opinion, that they are a species of the *forest laws*: that they are oppressive to the subject; and that the spirit of them is incompatible with legal liberty: that the penalties imposed by these laws bear no proportion to the nature of the offence: that the mode of trial, and the degree and kind of evidence necessary to convict, not only

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deprive the subject of all the benefits of a trial by jury, but are themselves too summary, and to the last degree arbitrary and oppressive: that, in particular, the late acts to prevent dog-stealing, or killing game between sun and sun, are distinguished by their absurdity, extravagance, and pernicious tendency. If these terms are weak or ambiguous, in what language can Junius express himself? It is no excuse for Lord Mansfield to say, that he happened to be absent when these bills passed the House of Lords. It was his duty to be present. Such bills could never have passed the House of Commons without his knowledge. But we very well know by what rule he regulates his attendance. When that order was made in the House of Lords, in the case of Lord Pomfret, at which every Englishman shudders, my honest Lord Mansfield found himself, *by mere accident*, in the Court of King's Bench, otherwise he would have done wonders in defence of law and property! The pitiful evasion is adapted to the character. But Junius will never justify himself by the example of this bad man. The distinction between *doing wrong*, and *avoiding to do right*, belongs to Lord Mansfield. Junius disclaims it.

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LETTER LXV.

TO LORD CHIEF JUSTICE MANSFIELD.

November 2, 1771.

AT the intercession of three of your countrymen, you have bailed a man, who, I presume, is also a *Scotchman*, and whom the Lord Mayor of London had refused to bail. I do not mean to enter into an examination of the partial, sinister motives of your conduct; but, confining myself strictly to the fact, I affirm, that you have done that, which, by law, you were not warranted to do. The thief was taken in the theft; the stolen goods were found upon him, and he made no defence. In these circumstances (the truth of which you dare not deny, because it is of public notoriety) it could not stand indifferent, whether he was guilty or not, much less could there be any presumption of his innocence; and, in these circumstances, I affirm, in contradiction to you, Lord Chief Justice Mansfield, that, by the laws of England, he was *not bailable*. If ever Mr. Eyre should be brought to trial, we shall hear what you have to say for yourself; and I

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pledge myself, before God and my country, in proper time and place, to make good my charge against you.

JUNIUS.

LETTER LXVI.

TO THE

PRINTER OF THE PUBLIC ADVERTISER.

November 9, 1771.

JUNIUS engages to make good his charge against *Lord Chief Justice Mansfield*, some time before the meeting of Parliament, in order that the House of Commons may, if they think proper, make it one article in the impeachment of the said Lord Chief Justice.

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LETTER LXVII.

TO HIS GRACE THE DUKE OF GRAFTON.

November 27, 1771.

WHAT is the reason, my Lord, that, when almost every man in the kingdom, without distinction of principles or party, exults in the ridiculous defeat of Sir James Lowther, when good and bad men unite in one common opinion of that baronet, and triumph in his distress, as if the event (without any reference to vice or virtue) were interesting to human nature, your Grace alone should appear so miserably depressed and afflicted? In such universal joy, I know not where you will look for a compliment of condolence, unless you appeal to the tender, sympathetic sorrows of Mr. Bradshaw. That cream-coloured gentleman's tears, affecting as they are, carry consolation along with them. He never weeps, but, like an April shower, with a lambent ray of sun-shine upon his countenance. From the feelings of honest men upon this joyful occasion, I do not mean to draw any conclusion to your Grace. They naturally rejoice when they see a signal instance of tyranny resisted with success,

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or treachery exposed to the derision of the world, an infamous informer defeated, and an impudent robber dragged to the public gibbet. But in the other class of mankind, I own I expect to meet the Duke of Grafton. Men who had no regard for justice, nor any sense of honour, seem as heartily pleased with Sir James Lowther's well-deserved punishment, as if it did not constitute an example against themselves. The unhappy baronet has no friends, even among those who resemble him. You, my Lord, are not reduced to so deplorable a state of dereliction; every villain in the kingdom is your friend; and, in compliment to such amity, I think you should suffer your dismal countenance to clear up. Besides, my Lord, I am a little anxious for the consistency of your character. You violate your own rules of decorum, when you do not insult the man you have betrayed.

The divine justice of retribution seems now to have begun its progress. Deliberate treachery entails punishment upon the traitor. There is no possibility of escaping it, even in the highest rank to which the consent of society can exalt the meanest and worst of men. The forced, unnatural union of Luttrell and Middlesex was an omen of another unnatural union, by which in-

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defeasible infamy is attached to the House of Brunswick. If one of those acts was virtuous and honourable, the best of Princes, I thank God, is happily rewarded for it by the other.—Your Grace, it has been said, had some share in recommending Colonel Luttrell to the King; or was it only the gentle Bradshaw who made himself answerable for the good behaviour of his friend? An intimate connexion has long subsisted between him and the worthy Lord Irnham. It arose from a fortunate similarity of principles, cemented by the constant mediation of their common friend Miss Davis*.

* There is a certain family in this country, on which nature seems to have entailed an hereditary baseness of disposition. As far as their history has been known, the son has regularly improved upon the vices of his father, and has taken care to transmit them pure and undiminished into the bosom of his successor. In the senate, their abilities have confined them to those humble, sordid services in which the scavengers of the Ministry are usually employed. But in the memoirs of private treachery, they stand first and unrivalled. The following story will serve to illustrate the character of this respectable family, and to convince the world, that the present possessor has as clear a title to the infamy of his ancestors, as he has to their estate. It deserves to be recorded, for the curiosity of the fact, and should be given to the public, as a warning to every honest member of society.

The present Lord Irnham, who is now in the decline of life, lately cultivated the acquaintance of a younger brother of a family, with which he had lived in some degree of intimacy and friendship. The young man had long been the dupe of a most unhappy attachment to a common prostitute. His friends and relations foresaw the consequences of this connection, and did every thing that depended upon them to save him from ruin. But he had a friend in Lord Irnham,

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Yet I confess I should be sorry that the opprobrious infamy of this match should reach beyond the family. We have now a better reason than ever to pray for the long life of the best of Princes, and the welfare of his royal *issue*. I will not mix any thing ominous with my prayers; but let Parliament look to it. A Luttrell shall never succeed to the Crown of England. If the hereditary virtues of the family deserve a kingdom, Scotland will be a proper retreat for them.

The next is a most remarkable instance of the goodness of Providence. The just law of retaliation has at last overtaken the little contemptible tyrant of the North. To this son-in-law of your dearest friend, the Earl of Bute, you meant to transfer the Duke of Portland's property; and you hastened the grant with an expedition

whose advice rendered all their endeavours ineffectual. This hoary letcher, not contented with the enjoyments of his friend's mistress, was base enough to take advantage of the passions and folly of the young man, and persuaded him to marry her. He descended even to perform the office of father to the prostitute. He gave her to his friend, who was on the point of leaving the kingdom, and the next night lay with her himself.

Whether the depravity of the human heart can produce any thing more base and detestable than this fact, must be left undetermined, until the son shall arrive at his father's age and experience.

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unknown to the Treasury, that he might have it time enough to give a decisive turn to the election for the county. The immediate consequence of this flagitious robbery was, that he lost the election which you meant to insure him, and with such signal circumstances of scorn, reproach, and insult, (to say nothing of the general exultation of all parties) as (excepting the King's brother-in-law, Colonel Luttrell, and old Simon, his father-in-law) hardly ever fell upon a gentleman in this country. In the event, he loses the very property of which he thought he had gotten possession, and after an expence which would have paid the value of the land in question twenty times over. The forms of villany, you see, are necessary to its success.—Hereafter you will act with greater circumspection, and not drive so directly to your object.—To *snatch a grace* beyond the reach of common treachery, is an exception, not a rule.

And now, my good Lord, does not your conscious heart inform you, that the justice of retribution begins to operate, and that it may soon approach your person? Do you think that Junius has renounced the Middlesex election? or that the King's timber shall be refused to the Royal Navy with impunity? or that you shall

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hear no more of the sale of that patent to Mr. Hine, which you endeavour to screen, by suddenly dropping your prosecution of Samuel Vaughan, when the rule against him was made absolute? I believe, indeed, there never was such an instance in all the history of negative impudence. But it shall not save you. The very sunshine you live in is a prelude to your dissolution. When you are ripe, you shall be plucked.

JUNIUS.

P. S. I beg you will convey to your Gracious Master my humble congratulations upon the glorious success of peerages and pensions so lavishly distributed as the rewards of Irish virtue.

LETTER LXVIII.

TO LORD CHIEF JUSTICE MANSFIELD.

January 21, 1772.

I HAVE undertaken to prove, that when, at the intercession of three of your countrymen, you bailed *John Eyre*, you did that *which by law you were not warranted to do;* and that a felon, under the circumstances *of being*

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taken in the fact, with the stolen goods upon him, and making no defence, is not bailable by the laws of England. Your learned advocates have interpreted this charge into a denial, that the Court of King's Bench, or the Judges of that Court, during the vacation, have any greater authority to bail for criminal offences than a justice of peace. With the instance before me, I am supposed to question your power of doing wrong, and to deny the existence of a power, at the same moment that I arraign the illegal exercise of it. But the opinions of such men, whether wilful in their malignity, or sincere in their ignorance, are unworthy of my notice. You, Lord Mansfield, did not understand me so; and I promise you, your cause requires an abler defence. I am now to make good my charge against you. However dull my argument, the subject of it is interesting. I shall be honoured with the attention of the public, and have a right to demand the attention of the legislature.—Supported, as I am, by the whole body of the criminal law of England, I have no doubt of establishing my charge. If, on your part, you shall have no plain, substantial defence, but should endeavour to shelter yourself under the quirk and evasion of a practising lawyer, or under the mere insulting assertion of power, with-

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out right, the reputation you pretend to is gone for ever; you stand degraded from the respect and authority of your office, and are no longer, *de jure*, Lord Chief Justice of England.

This letter, my Lord, is addressed not so much to you, as to the public. Learned as you are, and quick in apprehension, few arguments are necessary to satisfy you, that you have done that, which, by law, you were not warranted to do. Your conscience already tells you, that you have sinned against knowledge; and that, whatever defence you make, contradicts your own internal conviction. But other men are willing enough to take the law upon trust. They rely upon your authority, because they are too indolent to search for information: or, conceiving that there is some mystery in the laws of their country, which lawyers are only qualified to explain, they distrust their judgment, and voluntarily renounce the right of thinking for themselves. With all the evidence of history before them, from *Trefillian* to *Jefferies*, from *Jefferies* to *Mansfield*, they will not believe it possible, that a learned judge can act in direct contradiction to those laws, which he is supposed to have made the

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study of his life, and which he has sworn to administer faithfully. Superstition is certainly not the characteristic of this age; yet some men are bigotted in politics, who are infidels in religion. I do not despair of making them ashamed of their credulity.

The charge I brought against you is expressed in terms, guarded and well considered. They do not deny the strict power of the Judges of the Court of King's Bench to bail in cases not bailable by a justice of peace, nor replevisable by the common writ, or *ex officio*, by the Sheriff. I well know the practice of the Court, and by what legal rules it ought to be directed. But, far from meaning to soften or diminish the force of those terms I have made use of, I now go beyond them, and affirm,

I. That the superior power of bailing for felony, claimed by the Court of King's Bench, is founded upon the opinion of lawyers, and the practice of the Court; that the assent of the legislature to this power is merely negative, and that it is not supported by any positive provision in any statute whatsoever. If it be, produce the statute.

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II. Admitting that the Judges of the Court of King's Bench are vested with a discretionary power to examine and judge of circumstances and allegations which a justice of peace is not permitted to consider, I affirm that the judges, in the use and application of that discretionary power, are as strictly bound by the spirit, intent, and meaning, as the justice of peace is by the words, of the legislature. Favourable circumstances, alledged before the judge, may justify a doubt, whether the prisoner be guilty or not; and where the guilt is doubtful, a presumption of innocence should in general be admitted. But, when any such probable circumstances are alledged, they alter the state and condition of the prisoner. He is no longer that *all-but-convicted* felon, whom the law intends, and who by law is *not bailable at all.* If no circumstances whatsoever are alledged in his favour; if no allegation whatsoever be made to lessen the force of that evidence which the law annexes to a positive charge of felony, and particularly to the fact of *being taken with the maner;* I then say, that the Lord Chief Justice of England has no more right to bail him than a justice of peace. The discretion of an English judge is not of mere will and pleasure; it is not arbitrary; it is not capricious; but, as that great lawyer (whose au-

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thority I wish you respected half as much as I do) truly says*, "Discretion, taken as it ought "to be, is, *discernere per legem quid sit justum.* "If it be not directed by the right line of the "law, it is a crooked cord, and appeareth to be "unlawful." If discretion were arbitrary in the judge, he might introduce whatsoever novelties he thought proper. But, says Lord Coke, "Novelties, without warrant of precedents, are "not to be allowed: some certain rules are not "to be followed: *Quicquid judicis authoritati "subjicitur, novitati non subjicitur:*" and this sound doctrine is applied to the Star-Chamber, a court confessedly arbitrary. If you will abide by the authority of this great man, you shall have all the advantage of his opinion, wherever it appears to favour you. Excepting the plain, express meaning of the legislature, to which all private opinions must give way, I desire no better judge between us than Lord Coke.

III. I affirm that, according to the obvious, indisputable meaning of the legislature, repeatedly expressed, a person positively charged with *feloniously stealing*, and taken *in flagrante delicto*, with the stolen goods upon him, is *not*

* 4 Inst. 41. 66.

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bailable. The law considers him as differing in nothing from *a convict*, but in the form of conviction; and (whatever a corrupt judge may do) will accept of no security, but the confinement of his body within four walls. I know it has been alledged, in your favour, that you have often bailed for murders, rapes, and other manifest crimes. Without questioning the fact, I shall not admit that you are to be justified by your own example. If that were a protection to you, where is the crime, that, as a judge, you might not now securely commit? But neither shall I suffer myself to be drawn aside from my present argument, nor you to profit by your own wrong. To prove the meaning and intent of the legislature, will require a minute and tedious deduction. To investigate a question of law, demands some labour and attention, though very little genius or sagacity. As a practical profession, the study of the law requires but a moderate portion of abilities. The learning of a pleader is usually upon a level with his integrity. The indiscriminate defence of right and wrong contracts the understanding, while it corrupts the heart. Subtilty is soon mistaken for wisdom, and impunity for virtue. If there be any instances upon record, as some there are undoubtedly, of genius and morality united in a

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lawyer, they are distinguished by their singularity, and operate as exceptions.

I must solicit the patience of my readers.—This is no light matter; nor is it any more susceptible of ornament, than the conduct of Lord Mansfield is capable of aggravation.

As the law of bail, in charges of felony, has been exactly ascertained by acts of the legislature, it is at present of little consequence to enquire how it stood at common law before the statute of Westminster. And yet it is worth the reader's attention to observe, how nearly, in the ideas of our ancestors, the circumstance of being taken *with the maner* approached to the conviction* of the felon. It "fixed the authoritative stamp of verisimilitude upon the accusation: and, by the common law, when a thief "was taken *with the maner*, that is, with the "things stolen upon him *in manu*, he might, so "detected, *flagrante delicto*, be brought into "court, arraigned, and tried, *without indictment*; as, by the Danish law, he might be "taken and hanged on the spot, without accusation or trial." It will soon appear that our statute in law, in this behalf, though less sum-

* *Blackstone*, iv. 303.

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mary in point of proceeding, is directed by the same spirit. In one instance, the very form is adhered to. In offences relating to the forest, if a man was taken with vert, or venison*, it was declared to be equivalent to indictment. To enable the reader to judge for himself, I shall state, in due order, the several statutes relative to bail in criminal cases, or as much of them as may be material to the point in question, omitting superfluous words. If I misrepresent, or do not quote with fidelity, it will not be difficult to detect me.

† The statute of Westminster the first, in 1275, sets forth, that "Forasmuch as sheriffs "and others, who have taken and kept in pri- "son, persons detected of felony and incontinent, have let out by replevin such as were "*not replevisable*, because they would gain of "the one party, and grieve the other; and forasmuch as, before this time, it was not determined which persons were replevisable, and "which not; it is provided, and by the King "commanded, that such prisoners, &c. as be "*taken with the maner*, &c. or for manifest of-

* 1 *Ed.* III. *cap.* 8.---and 7 *Rich.* II. *cap.* 4.

† "*Videtur que le statute de mainprise n'est que re-* "*hearsal del comon ley.*" Bro. Mainp. 61.

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" fences, shall be in *nowise* replevisable by the " common writ, nor without writ." Lord Coke*, in his exposition of the last part of this quotation, accurately distinguishes between *replevy*, by the common writ, or *ex officio*, and *bail* by the King's Bench. The words of the statute certainly do not extend to the judges of that court. But, besides that, the reader will soon find reason to think that the legislature, in their intention, made no difference between *bailable* and *replevisable*. Lord Coke himself, if he be understood to mean nothing but an exposition of the statute of Westminster, and not to state the law generally, does not adhere to his own distinction. In expounding the other offences, which, by this statute, are declared not *replevisable*, he constantly uses the words *not bailable*. " That outlaws, for instance, are *not bailable at* " *all*: that persons who have abjured the realm, " are attainted upon their own confession, and " therefore *not bailable at all by law*: that prov- " ers are not *bailable*: that notorious felons are " not *bailable*." The reason why the superior

* " There are three points to be considered in the construc- " tion of all remedial statutes; the old law, the mischief, and " the remedy; that is, how the common law stood at the " making of the act; what the mischief was for which the " common law did not provide; and what remedy the Parlia- " ment hath provided to cure this mischief. It is the business " of the judges so to construe the act, as to suppress the mis- " chief, and advance the remedy." *Blackstone*, 1. 86.

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courts were not named in the statute of Westminster, was plainly this, "because anciently "most of the business touching bailment of pri- "soners for felony or misdemeanors, was per- "formed by the sheriffs, or special bailiffs of "liberties, either by writ, or *virtute officii**;" consequently the superior courts had little or no opportunity to commit those abuses which the statute imputes to the sheriffs. With submission to Dr. Blackstone, I think he has fallen into a contradiction, which, in terms at least, appears irreconcileable. After enumerating several offences not bailable, he asserts, without any condition or limitation whatsoever†, "All these "are clearly not admissible to bail." Yet, in a few lines after, he says, "*It is agreed* that the "Court of King's Bench may bail for any crime "whatsoever, *according to the circumstances of* "the case." To his first proposition he should have added, *by Sheriffs or Justices;* otherwise the two propositions contradict each other: with this difference, however, that the first is absolute, the second limited by *a consideration of circumstances.* I say this, without the least intended disrespect to the learned author. His work is of public utility, and should not hastily be condemned.

* 2 *Hale*, P. C. 122, 136. † *Blackstone*, iv. 296.

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The statute of 17 Richard II. *cap.* 10, 1393. sets forth, that, "Forasmuch as thieves notoriously defamed, *and others taken with the manner*, by their long abiding in prison, were delivered by charters and favourable inquests procured, to the great hinderance of the people, two men of law shall be assigned, in every commission of the peace, to proceed to the deliverance of such felons," &c. It seems, by this act, that there was a constant struggle between the legislature and the officers of justice. Not daring to admit felons *taken with the manner* to bail or mainprize, they evaded the law, by keeping the party in prison a long time, and then delivering him without due trial.

The statute of 1 Richard III. in 1483, sets forth, that, "Forasmuch as divers persons have been daily arrested and imprisoned for *suspicion* of felony, sometime of malice, and sometime of a *light suspicion*, and so kept in prison without bail or mainprize; be it ordained, that every justice of peace shall have authority, by his discretion, to let such prisoners and persons so arrested to bail or mainprize." By this act, it appears that there had been abuses in matter of imprisonment, and that the legislature meant to provide for the im-

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mediate enlargement of persons arrested on *light suspicion* of felony.

The statute of 3 Henry VII. in 1486, declares, that, under colour of the preceding act of Richard the Third, "Persons, *such as were* "*not mainpernable*, were oftentimes let to bail "or mainprize by justices of the peace, where- "by many murderers and felons escaped? the "King, &c. hath ordained, that the justices of "the peace, or two of them at least (whereof "one to be of the *quorum*) have authority to let "any such prisoners or persons, mainpernable "by the law, to bail or mainprize."

The statute of 1 and 2 of Philip and Mary, in 1554, sets forth, that, "Notwithstanding "the preceding statute of Henry the Seventh, "*one* justice of peace hath oftentimes, by "sinister labour and means, set at large "the greatest and notablest offenders, *such* "*as be not replevisable by the laws of this* "*realm;* and yet, the rather to hide their af- "fections in that behalf, have assigned the "cause of their apprehension to be but only "for *suspicion* of felony, whereby the said "offenders have escaped unpunished, and do "daily, to the high displeasure of Almighty God, "the great peril of the King and Queen's true

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" subjects, and encouragement of all thieves " and evil-doers; for reformation whereof be it " enacted, that no justices of peace shall let to " bail or mainprize any such persons, which for " any offence by them committed, be declared " *not* to be *replevised*, or *bailed*, or be forbidden " to be *replevised*, or *bailed*, by the statute of " Westminster the first; and furthermore, that " any persons arrested for manslaughter or fe- " lony, *being bailable by the law*, shall not be let " to bail or mainprize by any justices of peace, " but in the form therein after prescribed."—In the two preceding statutes, the words *bailable*, *replevisable*, and *mainpernable*, are used synonimously*, or promiscuously, to express the same single intention of the legislature, viz. *not to accept of any security but the body of the offender:* and when the latter statute prescribes the form in which persons arrested on *suspicion* of felony *(being bailable by the law)* may be let to bail, it evidently supposes that there are some cases not bailable by the law. It may be thought, perhaps, that I attribute to the legislature an appearance of inaccuracy in the use of terms merely to serve my present purpose. But, in truth, it would make more forcibly for my argument, to presume, that the legislature were con-

* 2 *Hale*, P. C. ii. 124.

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stantly aware of the strict legal distinction between *bail* and *replevy*, and that they always meant to adhere to it*. For if it be true that *replevy* is by the sheriffs, and *bail* by the higher courts at Westminter, (which I think no lawyer will deny) it follows, that when the legislature expressly say, that any particular offence is by law *not bailable*, the superior courts are comprehended in the prohibition, and bound by it. Otherwise, unless there was a positive exception of the superior courts (which I affirm there never was in any statute relative to bail) the legislature would grossly contradict themselves, and the manifest intention of the law be evaded. It is an established rule, that, when the law is *special*, and reason of it general, it is to be *generally* understood; and though, by custom, a latitude be allowed to the Court of King's Bench (to consider circumstances inductive of a doubt, whether the prisoner be guilty or innocent) if this latitude be taken as an arbitrary power to bail, when no circumstances whatsoever are alledged in favour of the prisoner, it is a power without right, and a daring violation of the whole English law of bail.

* *Vide* 2d Inst. 150, 186. "The word *replevisable* never "signifies *bailable*. *Bailable* is, in a court of record, by the "King's Justices; but *replevisable* is by the Sheriff."—*Selden*, State Trials, vii. 149.

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The act of the 31st of Charles the Second (commonly called the *Habeas Corpus Act*) particularly declares, that it is not meant to extend to treason or felony, plainly and specially expressed in the warrant of commitment. The prisoner is therefore left to seek his *Habeas Corpus* at common law: and so far was the legislature from supposing that persons (committed for treason or felony, plainly and specially expressed in the warrant of commitment) could be let to bail by a single judge, or by the whole court, that this very act provides a remedy for such persons, in case they are not indicted in the course of the term or sessions subsequent to their commitment. The law neither suffers them to be enlarged before trial, nor to be imprisoned after the time in which they ought regularly to be tried. In this case the law says, "It shall and may be lawful to and for the "judges of the Court of King's Bench, and "justices of oyer and terminer, or general gaol "delivery, and they are hereby required, upon "motion made to them in open court, the last "day of the term, session, or gaol delivery, "either by the prisoner, or any one in his behalf, "to set at liberty the prisoner upon bail, unless "it appear to the judges and justices, upon oath "made, that the witnesses for the King could,

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"not be produced the same term, sessions, or "gaol delivery." Upon the whole of this article I observe, 1. That the provision made in the first part of it would be, in a great measure, useless and nugatory, if any single judge might have bailed the prisoner *ex arbitrio* during the vacation; or if the court might have bailed him immediately after the commencement of the term or sessions. 2. When the law says, *It shall and may be lawful* to bail for felony under particular circumstances, we must presume, that, before the passing of that act, it was *not* lawful to bail under those circumstances. The terms used by the legislature are *enacting*, not *declaratory*. 3. Notwithstanding the party may have been imprisoned during the greatest part of the vacation, and during the whole session, the court are expressly forbidden to bail him, from that session to the next, if oath be made that the witnesses for the King could not be produced that same term or sessions.

Having faithfully stated the several acts of Parliament relative to bail in criminal cases, it may be useful to the reader to take a short historical review of the law of bail, through its various gradations and improvements.

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By the ancient common law, before and since the conquest, all felonies were bailable, till murder was excepted by statute; so that persons might be admitted to bail, before conviction, almost in every case. The statute of Westminster says, that before that time, it had not been determined which offences were replevisable, and which were not, whether by the common writ *de homine replegiando*, or *ex officio* by the sheriff. It is very remarkable, that the abuses arising from this unlimited power of replevy, dreadful as they were, and destructive to the peace of society, were not corrected or taken notice of by the legislature, until the Commons of the kingdom had obtained a share in it by their representatives; but the House of Commons had scarce begun to exist, when these formidable abuses were corrected by the statute of Westminster. It is highly probable, that the mischief had been severely felt by the people, although no remedy had been provided for it by the Norman kings or barons. "The * iniquity "of the times was so great, as it even forced the "subjects to forego that, which was in account "a great liberty, to stop the course of a growing "mischief." The preamble to the statutes made by the first Parliament of Edward the First,

* *Selden*, by *N. Bacon*, 182.

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assigns the reason of calling it*, "because the "people had been otherwise intreated than they "ought to be, the peace less kept, the laws less "used, and *offenders less punished* than they "ought to be, by reason whereof the people "feared less to offend;" and the first attempt to reform the various abuses, was by contracting the power of replevying felons.

For above two centuries following, it does not appear that any alteration was made in the law of bail, except that *being taken with vert or venison* was declared to be equivalent to indictment. The legislature adhered firmly to the spirit of the statute of Westminster. The statute of the 27th of Edward the First directs the justices of assize to enquire and punish officers bailing such as were *not bailable*. As for the judges of the superior courts, it is probable that in those days they thought themselves bound by the obvious intent and meaning of the legislature. They considered not so much to what particular persons the prohibition was addressed, as what the *thing* was which the legislature meant to prohibit; well knowing that in law, *quando aliquid prohibetur, prohibetur et omne, per quod devenitur ad illud.* "When any thing

* Parliamentary History, i. 82.

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" is forbidden, all the means by which the same " thing may be compassed or done are equally " forbidden."

By the statute of Richard the Third, the power of bailing was a little enlarged: every justice of peace was authorized to bail for felony; but they were expressly confined to persons arrested *on light suspicion:* and even this power, so limited, was found to produce such inconveniences, that in three years after the legislature found it necessary to repeal it. Instead of trusting any longer to a single justice of peace, the act of 3d Henry VII. repeals the preceding act, and directs, " That no prisoner *(of those who " are mainpernable by the law)* shall be let to bail " or mainprize by less than *two* justices, whereof " one to be of the quorum."

And so indispensably necessary was this provision thought for the administration of justice, and for the security and peace of society, that at this time an oath was proposed by the King, to be taken by the knights and esquires of his household, by the members of the House of Commons, and by the peers spiritual and temporal, and accepted and sworn to *quasi uná voce* by them all, which, among other engagements,

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binds them not to let any man to bail or mainprize, "knowing and deeming him to be a felon, "upon your honour and worship. So help you "God and all saints*."

In about half a century, however, even these provisions were found insufficient. The act of Henry the Seventh was evaded, and the legislature once more obliged to interpose. The act of 1 and 2 of Philip and Mary takes away entirely from the justices all power of bailing for offences declared *not bailable* by the statute of Westminster.

The illegal imprisonment of several persons, who had refused to contribute to a loan exacted by Charles the First, and the delay of the *Habeas Corpus*, and subsequent refusal to bail them, constituted one of the first and most important grievances of that reign. Yet when the House of Commons, which met in the year 1628, resolved upon measures of the most firm and strenuous resistance to the power of imprisonment, assumed by the King or privy council, and to the refusal to bail the party on the return of the *Habeas Corpus*, they did expressly, in all their resolutions, make an exception of commit-

* Parliamentary History, ii. 419.

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ments, where the cause of the restraint was expressed, and did by law justify the commitment. The reason of the distinction is, that whereas, when the cause of commitment is expressed, the crime is then known, and the offender must be brought to the ordinary trial: if, on the contrary, no cause of commitment be expressed, and the prisoner be thereupon remanded, it may operate to perpetual imprisonment. This contest with Charles the First produced the act of the 16th of that King; by which the Court of King's Bench are directed, within three days after the return to the *Habeas Corpus*, to examine and determine the legality of any commitment by the King or privy council, and to do *what in justice shall appertain*, in delivering, bailing, or *remanding* the prisoner. Now, it seems, it is unnecessary for the judge to do what appertains to justice. The same scandalous traffic, in which we have seen the privilege of Parliament exerted or relaxed, to gratify the present humour, or to serve the immediate purpose, of the Crown, is introduced into the administration of justice. The magistrate, it seems, has now no rule to follow, but the dictates of personal enmity, national partiality, or perhaps the most prostituted corruption.

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To complete this historical inquiry, it only remains to be observed, that the *Habeas Corpus* act of 31st of Charles the Second, so justly considered as another Magna Charta of the kingdom, "extends* only to the case of commitments "for such criminal charge as can produce no in- "convenience to public justice by a temporary "enlargement of the prisoner." So careful were the legislature, at the very moment when they were providing for the liberty of the subject, not to furnish any colour or pretence for violating or evading the established law of bail in the higher criminal offences. But the exception, stated in the body of the act, puts the matter out of all doubt. After directing the judges how they are to proceed to the discharge of the prisoner upon recognizance and surety, having regard to the quality of the prisoner and nature of the offence, it is expressly added, "unless it "shall appear to the said Lord Chancellor, &c. "that the party so committed is detained for "such matters or offences, for the which, *by the "law, the prisoner is not bailable.*"

When the laws, plain of themselves, are thus illustrated by facts, and their uniform meaning established by history, we do not want the au-

* Blackstone, iv. 137.

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thority of opinions, however respectable, to inform our judgment, or to confirm our belief. But I am determined, that you shall have no escape. Authority of every sort shall be produced against you, from Jacob to Lord Coke, from the dictionary to the classic. In vain shall you appeal from those upright judges whom you disdain to imitate, to those whom you have made your example. With one voice they all condemn you.

"To be taken with the *maner*, is where a "thief, having stolen any thing, is taken with "the same about him, as it were in his hands, "which is called *flagrante delicto*. Such a criminal is *not bailable by law*."—*Jacob*, under the word *Maner*.

"Those who are taken with the *maner* are "excluded, by the statute of Westminster, from "the benefit of a replevin."—*Hawkins, P. C.* ii. 98.

"Of such heinous offences, no one, who is "notoriously guilty, seems to be *bailable* by the "intent of this statute."—*Ditto*, ii. 99.

"The common practice and allowed general

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"rule is, that bail is only then proper, where it "stands *indifferent* whether the party were guilty "or innocent."—*Ditto, ditto.*

"There is no doubt but that the bailing of a "person, *who is not bailable by law,* is punishable, "either at common law, as a negligent escape, "or as an offence against the several statutes re-"lative to bail."—*Ditto,* 89.

"It cannot be doubted, but that neither the "judges of this, nor of any other superior court "of justice, are strictly within the purview of "that statute; yet they will always, in their dis-"cretion, pay a due regard to it, and not admit a "person to bail who is expressly declared by it "irreplevisable, *without some particular circum-"stance in his favour;* and, therefore, it seems "difficult to find an instance where persons, at-"tainted of felony, or notoriously guilty of trea-"son, or manslaughter, &c. by their own confes-"sion, or *otherwise,* have been admitted to the "benefit of bail, without some special motive to "the court to grant it."—*Ditto,* 114.

"If it appears that any man hath injury or "wrong by his imprisonment, we have power to "deliver and discharge him; if otherwise, *he is*

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" *to be remanded* by us to prison again."—*Lord Ch. J. Hyde, State Trials*, vii. 115.

" The statute of Westminster was especially " for direction to the Sheriffs and others; but to " say courts of justice are excluded from this " statute, I conceive it cannot be." *Attorney General Heath, Ditto*, 132.

" The court, upon view of the return, judgeth " of the sufficiency or insufficiency of it. If they " think the prisoner *in law* to be *bailable*, he is " committed to the Marshal, and bailed; if not, " he is remanded." Through the whole debate, the objection on the part of the prisoners was, that no cause of commitment was expressed in the warrant; but it was uniformly admitted, by their counsel, that, if the cause of commitment had been expressed for treason or felony, the court would then have done right in remanding them.

The Attorney General having urged, before a committee of both Houses, that, in Beckwith's case, and others, the lords of the council sent a letter to the Court of King's Bench to bail; it was replied, by the managers of the House of Commons, that this was of no moment: " for

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" that either the prisoner was *bailable by the law*,
" or *not bailable*. If bailable by the law, then
" he was to be bailed without any such letter;
" if not bailable by the law, then plainly the
" judges could not have bailed him upon the let-
" ter, without breach of their oath, which is,
" *that they are to do justice according to the law*."
&c.—*State Trials*, vii. 175.

" So that in bailing upon such offences of the
" highest nature, a kind of discretion, rather than
" a constant law, hath been exercised, when it
" stands *wholly indifferent*, in the eye of the court,
" whether the prisoner be guilty or not."—*Sel-
den St. Tr.* vii. 230. 1.

" I deny that a man is always bailable when
" imprisonment is imposed upon him for cus-
tody."—*Attorney General Heath, ditto*, 238.

By these quotations from the State Trials, though otherwise not of authority, it appears plainly, that, in regard *to bailable* or *not bailable*, all parties agreed in admitting one proposition as incontrovertible.

" In relation to capital offences, there are es-
" pecially these acts of parliament that are the

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"common landmarks* touching offences bailable "or not bailable."—*Hale*, ii. P. C. 127. The enumeration includes the several acts cited in this paper.

"Persons taken with the *manoeuvre* are not "bailable, because it is *furtum manifestum*."—*Hale*, ii. P. C. 133.

"The writ of *Habeas Corpus* is of a high na- "ture; for if persons be wrongfully committed, "they are to be discharged upon this writ re- "turned; or, if bailable, they are to be bailed: "*if not bailable, they are to be committed.*"—*Hale*, ii. P. C. 143. This doctrine of Lord Chief Justice Hale refers immediately to the superior courts from whence the writ issues. "After the "return is filed, the court is either to discharge, "or bail, or *commit* him, as the nature of the case "requires."—*Hale*, ii. P. C. 146.

"If bail be granted *otherwise than the law al- "loweth*, the party that alloweth the same shall "be fined, imprisoned, render damages, or for- "feit his place, as the case shall require."—*Selden, by N. Bacon*, 182.

* It has been the study of Lord Mansfield to remove land marks.

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" This induces an absolute necessity of ex-
" pressing, upon every commitment, the reason
" for which it is made; that the court, upon a
" *Habeas Corpus*, may examine into its validity,
" and, *according to the circumstances of the case*,
" may discharge, admit to bail, or *remand* the
" prisoner."—*Blackstone*, iii. 133.

" Marriot was committed for forging indorse-
" ments upon bank-bills, and upon a *Habeas*
" *Corpus* was bailed, because the crime was only
" a great misdemeanor; for though the forging
" the bills be felony, yet forging the indorse-
" ment is not."—*Salkeld*, i. 104.

" Appell de Mahem, &c. ideo ne fuit lesse a
" baillc, nient plus que in appell de robbery ou
" murder; quod nota, et que in robbery et mur-
" der le partie n'est baillable."—*Bro. Main-*
" *prize*, 67.

" The intendment of the law in bails is, *Quod*
" *stat indifferenter*, whether he be guilty or no;
" but when he is convicted by verdict or confes-
" sion, then he must be deemed in law to be
" guilty of the felony, and therefore *not bailable*
" *at all*."—*Coke*, ii. *Inst.* 188. iv. 178.

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"Bail is *quando stat indifferenter*, and not when "the offence is open and manifest."—2. *Inst.* 189.

"In this case *non stat indifferenter*, whether "he be guilty or no, being taken with the "*maner*, that is, with the thing stolen, as it were, "in his hand."—*Ditto, Ditto.*

"If it appeareth that this imprisonment be "just and lawful, he *shall* be *remanded* to the "former gaoler; but if it shall appear to the "court that he was imprisoned against the law of "the land, they ought, by force of this statute, to "deliver him: if it be *doubtful*, and under con-"sideration, he may be bailed." 2. *Inst.* 55.

It is unnecessary to load the reader with any farther quotations. If these authorities are not deemed sufficient to establish the doctrine maintained in this paper, it will be in vain to appeal to the evidence of law books, or the opinions of judges. They are not the authorities by which Lord Mansfield will abide. He assumes an arbitrary power of doing right: and if he does wrong, it lies only between God and his conscience.

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Now, my Lord, although I have great faith in the preceding argument, I will not say that every minute part of it is absolutely invulnerable. I am too well acquainted with the practice of a certain court, directed by your example, as it is governed by your authority, to think there ever yet was an argument, however conformable to law and reason, in which a cunning, quibbling attorney might not discover a flaw. But, taking the whole of it together, I affirm, that it constitutes a mass of demonstration, than which nothing more complete or satisfactory can be offered to the human mind. How an evasive, indirect reply will stand with your reputation, or how far it will answer, in point of defence, at the bar of the house of Lords, is worth your consideration. If, after all that has been said, it should still be maintained, that the Court of King's Bench, in bailing felons, are exempted from all legal rules whatsoever, and that the judge has no direction to pursue, but his private affections, or more unquestionable will and pleasure, it will follow plainly, that the distinction between bailable and not bailable, uniformly expressed by the legislature, current through all our law books, and admitted by all our great lawyers, without exception, is, in one sense, a nugatory, in another, a pernicious, dis-

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tinction. It is nugatory, as it supposes a difference in the bailable quality of offences, when, in effect, the distinction refers only to the rank of the magistrate. It is pernicious, as it implies a rule of law, which yet the judge is not bound to pay the least regard to; and impresses an idea upon the minds of the people, that the judge is wiser and greater than the law.

It remains only to apply the law, thus stated, to the fact in question. By an authentic copy of the *mittimus*, it appears, that John Eyre was committed for felony, plainly and especially expressed in the warrant of commitment. He was charged before Alderman Halifax, by the oath of Thomas Fielding, William Holder, William Payne, and William Nash, for *feloniously stealing* eleven quires of writing paper, value six shillings, the property of Thomas Beach, &c. By the examinations upon oath of the four persons mentioned in the *mittimus*, it was proved, that large quantities of paper had been missed; and that eleven quires (previously marked, from a suspicion that Eyre was the thief) were found upon him. Many other quires of paper, marked in the same manner, were found at his lodgings; and after he had been some time in Wood-street Compter, a key was found in his room there,

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which appeared to be a key to the closet at Guildhall, from whence the paper was stolen. When asked what he had to say in his defence, his only answer was, *I hope you will bail me.* Mr. Holder, the clerk, replied, *That is impossible. There never was an instance of it, when the stolen goods were found upon the thief.* The Lord Mayor was then applied to, and refused to bail him. Of all these circumstances, it was your duty to have informed yourself minutely. The fact was remarkable; and the Chief Magistrate of the City of London was known to have refused to bail the offender. To justify your compliance with the solicitations of your three countrymen, it should be proved, that such allegations were offered to you in behalf of their associate, as honestly and *bona fide* reduced it to a matter of doubt and indifference whether the prisoner was innocent or guilty. Was any thing offered by the Scotch triumvirate that tended to invalidate the positive charge made against him by four credible witnesses upon oath? Was it even insinuated to you, either by himself or his bail, that no felony was committed; or, that he was not the felon; that the stolen goods were *not* found upon him; or that he was only the receiver, not knowing them to be stolen? Or, in short, did they attempt to produce any evidence

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of his insanity? To all these questions I answer for you, without the least fear of contradiction, positively, No. From the moment he was arrested, he never entertained any hope of acquittal; therefore, thought of nothing but obtaining bail, that he might have time to settle his affairs, convey his fortune into another country, and spend the remainder of his life in comfort and affluence abroad. In this prudential scheme of future happiness, the Lord Chief Justice of England most readily and heartily concurred. At sight of so much virtue in distress, your natural benevolence took the alarm. Such a man as Mr. Eyre, struggling with adversity, must always be an interesting scene to Lord Mansfield. Or, was it that liberal anxiety, by which your whole life has been distinguished, to enlarge the liberty of the subject? My Lord, we did not want this new instance of the liberality of your principles. We already knew what kind of subjects they were for whose liberty you were anxious. At all events, the public are much indebted to you for fixing a price, at which felony may be committed with impunity.

You bound a felon, notoriously worth 30,000l. in the sum of 300l. With your natural turn to equity, and knowing, as you are, in the doctrine

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of precedents, you undoubtedly meant to settle the proportion between the fortune of the felon and the fine by which he may compound for his felony. The ratio now upon record, and transmitted to posterity under the auspices of Lord Mansfield, is exactly one to an hundred. My Lord, without intending it, you have laid a cruel restraint upon the genius of your countrymen. In the warmest indulgence of their passions, they have an eye to the expence; and if other virtues fail us, we have a resource in their economy.

By taking so trifling a security from John Eyre, you invited, and manifestly exhorted, him to escape. Although in bailable cases it be usual to take four securities, you left him in the custody of three Scotchmen, whom he might have easily satisfied for conniving at his retreat. That he did not make use of the opportunity you industriously gave him, neither justifies your conduct, nor can it be any way accounted for, but by his excessive and monstrous avarice. Any other man, but this bosom friend of three Scotchmen, would gladly have sacrificed a few hundred pounds, rather than submit to the infamy of pleading guilty in open court. It is possible, indeed, that he might have flattered himself, and

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not unreasonably, with the hopes of a pardon. That he would have been pardoned, seems more than probable, if I had not directed the public attention to the leading step you took in favour of him. In the present gentle reign, we well know what use has been made of the lenity of the Court, and of the mercy of the Crown. The Lord Chief Justice of England accepts of the hundredth part of the property of a felon, taken in the fact, as a recognizance for his appearance. Your brother *Smythe* browbeats a jury, and forces them to alter their verdict, by which they had found a Scotch serjeant guilty of murder; and though the Kennedies were convicted of a most deliberate and atrocious murder, they still had a claim to the Royal mercy. They were saved by the chastity of their connections. They had a sister; yet it was not her beauty, but the pliancy of her virtue, that recommended her to the King.

The holy author of our religion was seen in the company of sinners; but it was his gracious purpose to convert them from their sins. Another man, who, in the ceremonies of our faith, might give lessons to the great enemy of it, upon different principles, keeps much the same company. He advertises for patients, collects all the diseases

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of the heart, and turns a royal palace into an hospital for incurables. A man of honour has no ticket of admission at St. James's. They receive him like a virgin at the Magdalenes'; *Go, thou, and do likewise.*

My charge against you is now made good. I shall, however, be ready to answer or to submit to fair objections If, whenever this matter shall be agitated, you suffer the doors of the House of Lords to be shut, I now protest, that I shall consider you as having made no reply. From that moment, in the opinion of the world, you will stand self-convicted. Whether your reply be quibbling and evasive, or liberal and in point, will be matter for the judgment of your peers; but if, when every possible idea of disrespect to that noble House (in whose honour and justice the nation implicitly confides) is here most solemnly disclaimed, you should endeavour to represent this charge as a contempt of their authority, and move their lordships to censure the publisher of this paper, I then affirm, that you support injustice by violence, that you are guilty of a heinous aggravation of your offence, and that you contribute your utmost influence to promote, on the part of the highest court of judicature, a positive denial of justice to the nation.

JUNIUS.

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LETTER LXIX.

TO THE RIGHT HON. LORD CAMDEN.

MY LORD,

I TURN with pleasure from that barren waste in which no salutary plant takes root, no verdure quickens, to a character fertile, as I willingly believe, in every great and good qualification. I call upon you, in the name of the English nation, to stand forth in defence of the laws of your country, and to exert, in the cause of truth and justice, those great abilities with which you were entrusted for the benefit of mankind. To ascertain the facts set forth in the preceding paper, it may be necessary to call the persons mentioned in the *mittimus* to the bar of the House of Lords. If a motion for that purpose should be rejected, we shall know what to think of Lord Mansfield's innocence. The legal argument is submitted to your Lordship's judgment. After the noble stand you made against Lord Mansfield, upon the question of libel, we did expect that you would not have suffered that matter to have remained undetermined. But it was said that Lord Chief Justice Wilmot

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Earl Camden.

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had been *prevailed upon* to vouch for an opinion of the late Judge Yates, which was supposed to make against you; and we admit of the excuse. When such detestable arts are employed to prejudge a question of right, it might have been imprudent, at that time, to have brought it to a decision. In the present instance, you will have no such opposition to contend with. If there be a judge, or a lawyer, of any note in Westminster-hall, who shall be daring enough to affirm, that, acccording to the true intendment of the laws of England, a felon, taken with the *maner in flagrante delicto*, is bailable, or that the discretion of an English judge is merely arbitrary, and not governed by rules of law, I should be glad to be acquainted with him. Whoever he be, I will take care that he shall not give you much trouble. Your Lordship's character assures me that you will assume that principal part, which belongs to you, in supporting the laws of England against a wicked judge, who makes it the occupation of his life to misinterpret and pervert them. If you decline this honourable office, I fear it will be said, that, for some months past, you have kept too much company with the Duke of Grafton. When the contest turns upon the interpretation of the laws, you cannot, without a formal surrender of all your reputation,

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yield the post of honour even to Lord Chatham. Considering the situation and abilities of Lord Mansfield, I do not scruple to affirm, with the most solemn appeal to God for my sincerity, that, in my judgment, he is the very worst and most dangerous man in the kingdom. Thus far I have done my duty in endeavouring to bring him to punishment. But mine is an inferior, ministerial office in the temple of justice: I have bound the victim, and dragged him to the altar.

JUNIUS.

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The Reverend Mr. John Horne having, with his usual veracity, and honest industry, circulated a report that Junius, in a letter to the Supporters of the Bill of Rights, had warmly declared himself in favour of long parliaments and rotten boroughs, it is thought necessary to submit to the public the following extract from his letter to John Wilkes, Esq. dated the 7th of September, 1771, and laid before the Society on the 24th of the same month.

"With regard to the several articles, taken "separately, I own I am concerned to see, that "the great condition which ought to be the *sine* "*qua non* of parliamentary qualification, which "ought to be the basis (as it assuredly will be "the only support) of every barrier raised in de-"fence of the constitution, (I mean *a declaration* "*upon oath to shorten the duration of parlia-*"*ments*,) is reduced to the fourth rank in the "esteem of the society; and even in that place, "far from being insisted on with firmness and "vehemence, seems to have been particularly "slighted in the expression, *You shall endeavour* "*to restore annual parliaments*. Are these the "terms which men who are in earnest make use "of, when the *salus reipublicæ* is at stake? I ex-"pected other language from Mr. Wilkes. Be-

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" sides my objection in point of form, I disap-
" prove highly of the meaning of the fourth arti-
" cle as it stands. Whenever the question shall
" be seriously agitated, I will endeavour (and if
" I live, will assuredly attempt it) to convince
" the English nation, by arguments, to my un-
" derstanding unanswerable, that they ought
" to insist upon a triennial, and banish the idea
" of an annual parliament . . . . . I am con-
" vinced, that, if shortening the duration of
" parliaments (which, in effect, is keeping the
" representative under the rod of the consti-
" tuent) be not made the basis of our new par-
" liamentary jurisprudence, other checks or im-
" provements signify nothing. On the contrary,
" if this be made the foundation, other mea-
" sures may come in aid, and, as auxiliaries, be
" of considerable advantage. Lord Chatham's
" project, for instance, of increasing the number
" of knights of shires, appears to me admirable.
" . . . . . As to cutting away the rotten
" boroughs, I am as much offended as any man
" at seeing so many of them under the direct in-
" fluence of the Crown, or at the disposal of pri-
" vate persons. Yet, I own, I have both doubts
" and apprehensions in regard to the remedy
" you propose. I shall be charged, perhaps,
" with an unusual want of political intrepidity,

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" when I honestly confess to you, that I am " startled at the idea of so extensive an ampu- " tation. In the first place, I question the power, " *de jure*, of the legislature to disfranchise a " number of boroughs upon the general ground " of improving the constitution. There cannot " be a doctrine more fatal to the liberty and " property we are contending for, than that " which confounds the idea of a *supreme* and an " *arbitrary* legislature. I need not point out to " you the fatal purposes to which it has been, " and may be, applied. If we are sincere in " the political creed we profess, there are many " things which we ought to affirm, cannot be done " by King, Lords, and Commons. Among these, " I reckon the disfranchising of boroughs, with " a general view of improvement. I consider it " as equivalent to robbing the parties concerned " of their freehold, of their birthright. I say, " that, although this birthright may be forfeited, " or the exercise of it suspended in particular " cases, it cannot be taken away by a general " law, for any real or pretended purpose of im- " proving the constitution.—Supposing the at- " tempt made, I am persuaded you cannot mean " that either King, or Lords, should take an ac- " tive part in it. A bill which only touches the " representation of the people, must originate in

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" the House of Commons. In the formation " and mode of passing it, the exclusive right of " the Commons must be asserted as scrupulously " as in the case of a money bill. Now, Sir, I " should be glad to know by what kind of rea- " soning it can be proved, that there is a power " vested in the representative to destroy his im- " mediate constituent. From whence could he " possibly derive it? A courtier, I know, will " be ready to maintain the affirmative. The " doctrine suits him exactly, because it gives an " unlimited operation to the influence of the " Crown. But we, Mr. Wilkes, ought to hold " a different language. It is no answer to me to " say, That the bill, when it passes the House " of Commons, is the act of the majority, and " not the representatives of the particular bo- " roughs concerned. If the majority can dis- " franchise ten boroughs, why not twenty, why " not the whole kingdom? Why should not " they make their own seats in parliament for " life? When the septennial act passed, the le- " gislature did what, apparently and palpably, " they had no power to do: but they did more " than people in general were aware of; they, " in effect, disfranchised the whole kingdom for " four years.

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"For argument's sake, I will now suppose "that the expediency of the measure, and the "power of parliament, are unquestionable. "Still you will find an insurmountable difficulty "in the execution. When all your instruments "of amputation are prepared, when the unhap- "py patient lies bound at your feet, without the "possibility of resistance, by what infallible "rule will you direct the operation? When you "propose to cut away the *rotten* parts, can you "tell us what parts are perfectly *sound*? Are "there any certain limits in fact or theory, to "inform you at what point you must stop, at "what point the mortification ends? To a man "so capable of observation and reflection as you "are, it is unnecessary to say all that might be "said upon the subject. Besides that I approve "highly of Lord Chatham's idea *of infusing a "portion of new health into the constitution, to "enable it to bear its infirmities* (a brilliant ex- "pression, and full of intrinsic wisdom) other "reasons occur in persuading me to adopt it. I "have no objection," &c.

The man who fairly and completely answers this argument, shall have my thanks and my applause. My heart is already with him. I am ready to be converted. I admire his morality,

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and would gladly subscribe to the articles of his faith. Grateful, as I am, to the *good Being* whose bounty has imparted to me this reasoning intellect, whatever it is, I hold myself proportionably indebted to him from whose enlightened understanding another ray of knowledge communicates to mine. But neither should I think the most exalted faculties of the human mind a gift worthy of the Divinity, nor any assistance in the improvement of them a subject of gratitude to my fellow-creature, if I were not satisfied, that, really, to inform the understanding, corrects and enlarges the heart.

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